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THE
from Doctor Ramsay

FEDERALIST:

A COLLECTION

OF

E S S A Y S,

WRITTEN IN FAVOUR OF THE

NEW CONSTITUTION,

AS AGREED UPON BY THE FEDERAL CONVENTION,
SEPTEMBER 17, 1787.

IN TWO VOLUMES.

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IT is supposed that a collection of the papers which have made their appearance in the Gazettes of this City, under the Title of the *FEDERALIST*, may not be without effect in assisting the public judgment on the momentous question of the Constitution for the United States, now under the consideration of the people of America. A desire to throw full light upon so interesting a subject has led, in a great measure unavoidably, to a more copious discussion than was at first intended. And the undertaking not being yet completed, it is judged adviseable to divide the collection into two Volumes, of which the ensuing Numbers constitute the first. The second Volume will follow as speedily as the Editor can get it ready for publication.

The particular circumstances under which these papers have been written, have rendered it impracticable to avoid violations of

method and repetitions of ideas which cannot but displease a critical reader. The latter defect has even been intentionally indulged, in order the better to impress particular arguments which were most material to the general scope of the reasoning. Respect for public opinion, not anxiety for the literary character of the performance, dictates this remark. The great wish is, that it may promote the cause of truth, and lead to a right judgment of the true interests of the community.

NEW-YORK, March 17, 1788.

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THE
FEDERALIST:

ADDRESSED TO THE
PEOPLE OF THE STATE OF
NEW-YORK.

NUMBER I.

Introduction.

AFTER an unequivocal experience of the inefficacy of the subsisting federal government, you are called upon to deliberate on a new constitution for the United States of America. The subject speaks its own importance; comprehending in its consequences, nothing less than the existence of the UNION, the safety and welfare of the parts of which it is composed, the fate of an empire, in many respects, the most interesting in the world. It has been frequently remarked, that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not, of establishing good government from reflection and choice, or whether they are forever destined to depend, for their political constitutions, on accident and force. If there be any truth in the remark, the crisis, at which we are arrived, may with propriety be regarded as the era in which

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that decision is to be made; and a wrong election of the part we shall act, may, in this view, deserve to be considered as the general misfortune of mankind.

This idea will add the inducements of philanthropy to those of patriotism, to heighten the solicitude which all considerate and good men must feel for the event. Happy will it be if our choice should be directed by a judicious estimate of our true interests, unperplexed and unbiassed by considerations not connected with the public good. But this is a thing more ardently to be wished, than seriously to be expected. The plan offered to our deliberations, affects too many particular interests, innovates upon too many local institutions, not to involve in its discussion a variety of objects foreign to its merits, and of views, passions and prejudices little favourable to the discovery of truth.

Among the most formidable of the obstacles, which the new constitution will have to encounter, may readily be distinguished the obvious interest of a certain class of men in every state to resist all changes which may hazard a diminution of the power, emolument and consequence of the offices they hold under the state establishments—and the perverted ambition of another class of men, who will either hope to aggrandise themselves by the confusions of their country, or will flatter themselves with fairer prospects of elevation from the subdivision of the empire into several partial confederacies, than from its union under one government.

It is not, however, my design to dwell upon observations of this nature. I am well aware that it would be disingenuous to resolve indiscriminately the opposition of any set of men (merely because their situations might subject them to suspicion) into interested or ambitious views: Candour will oblige us to admit, that even such men may be actuated by upright intentions; and it cannot be doubted, that much of the opposition which has made its appearance, or may hereafter

hereafter, make its appearance, will spring from sources blameless at least, if not respectable, the honest errors of minds led astray by preconceived jealousies and fears. So numerous indeed and so powerful are the causes, which serve to give a false bias to the judgment, that we upon many occasions, see wise and good men on the wrong as well as on the right side of questions, of the first magnitude to society. This circumstance, if duly attended to, would furnish a lesson of moderation to those, who are ever so thoroughly persuaded of their being in the right, in any controversy. And a farther reason for caution, in this respect, might be drawn from the reflection, that we are not always sure, that those who advocate the truth are influenced by purer principles than their antagonists. Ambition, avarice, personal animosity, party opposition, and many other motives, not more laudable than these, are apt to operate as well upon those who support as upon those who oppose the right side of a question. Were there not even these inducements to moderation, nothing could be more illjudged than that intolerant spirit, which has, at all times, characterised political parties. For, in politics as in religion, it is equally absurd to aim at making proselytes by fire and sword. Heresies in either can rarely be cured by persecution.

And yet however just these sentiments must appear to candid men, we have already sufficient indications, that it will happen in this as in all former cases of great national discussion. A torrent of angry and malignant passions will be let loose. To judge from the conduct of the opposite parties, we shall be led to conclude, that they will mutually hope to evince the justness of their opinions, and to increase the number of their converts by the loudness of their declamations, and by the bitterness of their invectives. An enlightened zeal for the energy and efficiency of government will be stigmatised, as the offspring of a temper fond of despotic power and hostile to the principles of li-

erty. An overscrupulous jealousy of danger to the rights of the people, which is more commonly the fault of the head than of the heart, will be represented as mere pretence and artifice; the stale bait for popularity at the expence of public good. It will be forgotten, on the one hand, that jealousy is the usual concomitant of violent love, and that the noble enthusiasm of liberty is too apt to be infected with a spirit of narrow and illiberal distrust. On the other hand, it will be equally forgotten, that the vigour of government is essential to the security of liberty; that, in the contemplation of a sound and well informed judgment, their interests can never be separated; and that a dangerous ambition more often lurks behind the specious mask of zeal for the rights of the people, than under the forbidding appearances of zeal for the firmness and efficiency of government. History will teach us, that the former has been found a much more certain road to the introduction of despotism, than the latter, and that of those men who have overturned the liberties of republics the greatest number have begun their career, by paying an obsequious court to the people, commencing demagogues and ending tyrants.

In the course of the preceding observations I have had an eye, my fellow citizens, to putting you upon your guard against all attempts from whatever quarter, to influence your decision in a matter of the utmost moment to your welfare by any impressions, other than those which may result from the evidence of truth. You will, no doubt, at the same time, have collected from the general scope of them that they proceed from a source not unfriendly to the new constitution. Yes, my countrymen, I own to you, that after having given it an attentive consideration, I am clearly of opinion, it is your interest to adopt it. I am convinced, that this is the safest course for your liberty, your dignity, and your happiness. I affect not reserves, which I do not feel. I will not amuse you with an
appearance

appearance of deliberation, when I have decided. I frankly acknowledge to you my convictions, and I will freely lay before you the reasons on which they are founded. The consciousness of good intentions disdains ambiguity. I shall not however multiply professions on this head. My motives must remain in the depository of my own breast: My arguments will be open to all, and may be judged of by all. They shall at least be offered in a spirit, which will not disgrace the cause of truth.

I propose in a series of papers, to discuss the following interesting particulars—*The utility of the UNION to your political prosperity.—The insufficiency of the present confederation to preserve that Union.—The necessity of a government at least equally energetic with the one proposed to the attainment of this object.—The conformity of the proposed constitution to the true principles of republican government.—Its analogy to your own state constitution—and lastly, the additional security, which its adoption will afford to the preservation of that species of government, to liberty and to property.*

In the progress of this discussion I shall endeavour to give a satisfactory answer to all the objections which shall have made their appearance, that may seem to have any claim to your attention.

It may perhaps be thought superfluous to offer arguments to prove the utility of the UNION, a point, no doubt, deeply engraved on the hearts of the great body of the people in every state, and one, which it may be imagined has no adversaries. But the fact is, that we already hear it whispered in the private circles of those who oppose the new constitution, that the Thirteen States are of too great extent for any general system, and that we must of necessity resort to separate confederacies of distinct portions of the whole.* This doctrine will, in all probability, be gradually

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* The same idea, tracing the arguments to their consequences, is held out in several of the late publications against the new constitution.

gradually propagated, till it has votaries enough to countenance an open avowal of it. For nothing can be more evident, to those who are able to take an enlarged view of the subject, than the alternative of an adoption of the new constitution, or a dismemberment of the union. It will therefore be of use to begin by examining the advantages of that union, the certain evils and the probable dangers, to which every state will be exposed from its dissolution.— This shall accordingly constitute the subject of my next address.

PUBLIUS.

NUMBER II.

Concerning Dangers from foreign Force and Influence.

WHEN the people of America reflect that they are now called upon to decide a question, which, in its consequences, must prove one of the most important, that ever engaged their attention, the propriety of their taking a very comprehensive, as well as a very serious view of it, will be evident.

Nothing is more certain than the indispensable necessity of government; and it is equally undeniable, that whenever and however it is instituted, the people must cede to it some of their natural rights, in order to vest it with requisite powers. It is well worthy of consideration therefore, whether it would conduce more to the interest of the people of America, that they should, to all general purposes, be one nation, under one federal government, than that they should divide themselves into separate confederacies, and give to the head of each, the same kind of powers which they are advised to place in one national government.

It has until lately been a received and uncontradicted opinion, that the prosperity of the people of America

America depended on their continuing firmly united, and the wishes, prayers and efforts of our best and wisest citizens have been constantly directed to that object. But politicians now appear, who insist that this opinion is erroneous, and that instead of looking for safety and happiness in union, we ought to seek it in a division of the states into distinct confederacies or sovereignties. However extraordinary this new doctrine may appear, it nevertheless has its advocates; and certain characters who were much opposed to it formerly, are at present of the number. Whatever may be the arguments or inducements which have wrought this change in the sentiments and declarations of these gentlemen, it certainly would not be wise in the people at large to adopt these new political tenets without being fully convinced that they are founded in truth and sound policy.

It has often given me pleasure to observe, that independent America was not composed of detached and distant territories, but that one connected, fertile, wide-spreading country, was the portion of our western sons of liberty. Providence has in a particular manner blessed it with a variety of soils and productions, and watered it with innumerable streams, for the delight and accommodation of its inhabitants. A succession of navigable waters forms a kind of chain round its borders, as if to bind it together; while the most noble rivers in the world, running at convenient distances, present them with highways for the easy communication of friendly aids, and the mutual transportation and exchange of their various commodities.

With equal pleasure I have as often taken notice, that Providence has been pleased to give this one connected country, to one united people, a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs, and who, by their joint counsels, arms and efforts, fighting side by side throughout

throughout a long and bloody war, have nobly established their general liberty and independence.

This country and this people seem to have been made for each other, and it appears as if it was the design of Providence, that an inheritance so proper and convenient, for a band of brethren, united to each other by the strongest ties, should never be split into a number of unsocial, jealous and alien sovereignties.

Similar sentiments have hitherto prevailed among all orders and denominations of men among us. To all general purposes we have uniformly been one people—each individual citizen every where enjoying the same national rights, privileges, and protection. As a nation we have made peace and war—as a nation we have vanquished our common enemies—as a nation we have formed alliances and made treaties, and entered into various compacts and conventions with foreign states.

A strong sense of the value and blessings of Union induced the people, at a very early period, to institute a federal government to preserve and perpetuate it. They formed it almost as soon as they had a political existence; nay at a time, when their habitations were in flames, when many of their citizens were bleeding, and when the progress of hostility and desolation left little room for those calm and mature enquiries and reflections, which must ever precede the formation of a wise and well balanced government for a free people. It is not to be wondered at that a government instituted in times so inauspicious, should on experiment be found greatly deficient and inadequate to the purpose it was intended to answer.

This intelligent people perceived and regretted these defects. Still continuing no less attached to union, than enamoured of liberty, they observed the danger, which immediately threatened the former and more remotely the latter; and being persuaded that
ample

ample security for both, could only be found in a national government more wisely framed, they, as with one voice, convened the late convention at Philadelphia, to take that important subject under consideration.

This convention, composed of men who possessed the confidence of the people, and many of whom had become highly distinguished by their patriotism, virtue and wisdom, in times which tried the minds and hearts of men, undertook the arduous task. In the mild season of peace, with minds unoccupied by other subjects, they passed many months in cool uninterrupted and daily consultations; And finally, without having been awed by power, or influenced by any passions, except love for their country, they presented and recommended to the people the plan produced by their joint and very unanimous counsels.

Admit, for so is the fact, that this plan is only *recommended*, not imposed, yet let it be remembered, that it is neither recommended to *blind* approbation, nor to *blind* reprobation; but to that sedate and candid consideration, which the magnitude and importance of the subject demand, and which it certainly ought to receive. But, as has been already remarked, it is more to be wished than expected that it may be so considered and examined. Experience on a former occasion teaches us not to be too sanguine in such hopes. It is not yet forgotten, that well grounded apprehensions of imminent danger induced the people of America to form the memorable Congress of 1774. That body recommended certain measures to their constituents, and the event proved their wisdom; yet it is fresh in our memories how soon the press began to teem with pamphlets and weekly papers against those very measures. Not only many of the officers of government who obeyed the dictates of personal interest, but others from a mistaken estimate of consequences, from the undue influence of ancient attachments, or whose ambition aimed at objects which did not

not correspond with the public good, were indefatigable in their endeavours to persuade the people to reject the advice of that patriotic congress. Many indeed were deceived and deluded, but the great majority of the people reasoned and decided judiciously; and happy they are in reflecting that they did so.

They considered that the congress was composed of many wise and experienced men. That being convened from different parts of the country, they brought with them and communicated to each other a variety of useful information. That in the course of the time they passed together in enquiring into and discussing the true interests of their country, they must have acquired very accurate knowledge on that head. That they were individually interested in the public liberty and prosperity, and therefore that it was not less their inclination, than their duty, to recommend only such measures, as after the most mature deliberation they really thought prudent and advisable.

These and similar considerations then induced the people to rely greatly on the judgment and integrity of the congress; and they took their advice, notwithstanding the various arts and endeavours used to deter and dissuade them from it. But if the people at large had reason to confide in the men of that congress, few of whom had then been fully tried or generally known, still greater reason have they now to respect the judgment and advice of the convention, for it is well known that some of the most distinguished members of that congress, who have been since tried and justly approved for patriotism and abilities, and who have grown old in acquiring political information, were also members of this convention, and carried into it their accumulated knowledge and experience.

It is worthy of remark that not only the first, but every succeeding congress, as well as the late convention, have invariably joined with the people in thinking that the prosperity of America depended on its Union. To preserve and perpetuate it, was the great

great object of the people in forming that convention, and it is also the great object of the plan which the convention has advised them to adopt. With what propriety therefore, or for what good purposes, are attempts at this particular period, made by some men, to depreciate the importance of the union? or why is it suggested that three or four confederacies would be better than one? I am persuaded in my own mind, that the people have always thought right on this subject, and that their universal and uniform attachment to the cause of the union, rests on great and weighty reasons, which I shall endeavour to develop and explain in some ensuing papers. They who promote the idea of substituting a number of distinct confederacies in the room of the plan of the convention, seem clearly to foresee that the rejection of it would put the continuance of the union in the utmost jeopardy—that certainly would be the case, and I sincerely wish that it may be as clearly foreseen by every good citizen, that whenever the dissolution of the union arrives, America will have reason to exclaim in the words of the Poet, "FAREWELL, A LONG FAREWELL, TO ALL MY GREATNESS." **PUBLIUS.**

N U M B E R III.

The same Subject continued.

IT is not a new observation that the people of any country (if like the Americans intelligent and well informed) seldom adopt, and steadily preserve for many years, in an erroneous opinion respecting their interests. That consideration naturally tends to create great respect for the high opinion which the people of America have so long and uniformly entertained of the importance of their continuing firmly united under one

one federal government, vested with sufficient powers for all general and national purposes.

The more attentively I consider and investigate the reasons which appear to have given birth to this opinion, the more I become convinced that they are cogent and conclusive.

Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their *safety* seems to be the first. The *safety* of the people doubtless has relation to a great variety of circumstances and considerations, and consequently affords great latitude to those who wish to define it precisely and comprehensively.

At present I mean only to consider it as it respects security for the preservation of peace and tranquility as well against dangers, from *foreign arms and influence*, as from dangers of the *like kind* arising from domestic causes. As the former of these comes first in order, it is proper it should be the first discussed. Let us therefore proceed to examine whether the people are not right in their opinion, that a cordial union under an efficient national government, affords them the best security that can be devised against *hostilities* from abroad.

The number of wars which have happened or will happen in the world, will always be found to be in proportion to the number and weight of the causes, whether *real* or *pretended*, which *provoke* or *invite* them. If this remark be just, it becomes useful to inquire, whether so many *just* causes of war are likely to be given by *united* America, as by *disunited* America; for if it should turn out that united America will probably give the fewest, then it will follow, that, in this respect, the union tends most to preserve the people in a state of peace with other nations.

The *just* causes of war for the most part arise either from violations of treaties, or from direct violence. America has already formed treaties with no less than six foreign nations, and all of them, except Prussia, are

are maritime, and therefore able to annoy and injure us: She has a so extensive commerce with Portugal, Spain, and Britain, and with respect to the two latter, has in addition the circumstance of neighbourhood to attend to.

It is of high importance to the peace of America, that she observe the laws of nations towards all these powers; and to me it appears evident that this will be more perfectly and punctually done by one national government, than it could be either by thirteen separate states, or by three or four distinct confederacies. For this opinion various reasons may be assigned.

When once an efficient national government is established, the best men in the country will not only consent to serve, but also will generally be appointed to manage it; for although town or country, or other contracted influence may place men in state assemblies, or senates, or courts of justice, or executive departments; yet more general and extensive reputation for talents and other qualifications, will be necessary to recommend men to offices under the national government, especially as it will have the widest field for choice, and never experience that want of proper persons, which is not uncommon in some of the states. Hence it will result, that the administration, the political counsels, and the judicial decisions of the national government will be more wise, systematical and judicious, than those of individual states, and consequently more satisfactory with respect to other nations, as well as more *safe* with respect to us.

Under the national government, treaties and articles of treaties, as well as the laws of nations, will always be expounded in one sense, and executed in the same manner—whereas adjudications on the same points and questions, in thirteen states, or in three or four confederacies, will not always accord or be consistent; and that as well from the variety of independent courts and judges appointed by different and independent governments, as from the different local

laws and interests which may affect and influence them. The wisdom of the convention in committing such questions to the jurisdiction and judgment of courts appointed by, and responsible only to one national government, cannot be too much commended.

The prospect of present loss or advantage, may often tempt the governing party in one or two states to swerve from good faith and justice; but those temptations not reaching the other states, and consequently having little or no influence on the national government, the temptations will be fruitless, and good faith and justice be preserved. The case of the treaty of peace with Britain, adds great weight to this reasoning.

If even the governing party in a state should be disposed to resist such temptations, yet as such temptations may, and commonly do result from circumstances peculiar to the state, and may affect a great number of the inhabitants, the governing party may not always be able if willing to prevent the injustice meditated, or to punish the aggressors. But the national government, not being affected by those local circumstances, will neither be induced to commit the wrong themselves, nor want power or inclination to prevent, or punish its commission by others.

So far therefore as either designed or accidental violations of treaties and of the laws of nations afford *just* causes of war, they are less to be apprehended under one general government, than under several lesser ones, and in that respect, the former most favors the *safety* of the people.

As to those just causes of war which proceed from direct and unlawful violence, it appears equally clear to me, that one good national government affords vastly more security against dangers of that sort, than can be derived from any other quarter.—

Such violences are more frequently occasioned by the passions and interests of a part than of the whole, of one or two states than of the union.—

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Not a single Indian war has yet been produced by aggressions of the present federal government, feeble as it is, but there are several instances of Indian hostilities having been provoked by the improper conduct of individual states, who either unable or unwilling to restrain or punish offences, have given occasion to the slaughter of many innocent inhabitants.

The neighbourhood of Spanish and British territories, bordering on some states, and not on others, naturally confines the causes of quarrel more immediately to the borderers. The bordering states, if any, will be those who, under the impulse of sudden irritation, and a quick sense of apparent interest or injury, will be most likely by direct violence, to excite war with those nations; and nothing can so effectually obviate that danger, as a national government, whose wisdom and prudence will not be diminished by the passions which actuate the parties immediately interested.

But not only fewer just causes of war will be given by the national government, but it will also be more in their power to accommodate and settle them amicably. They will be more temperate and cool, and in that respect, as well as in others, will be more in capacity to act with circumspection than the offending state. The pride of states as well as of men, naturally disposes them to justify all their actions, and opposes their acknowledging, correcting or repairing their errors and offences. The national government in such cases will not be affected by this pride, but will proceed with moderation and candour, to consider and decide on the means most proper to extricate them from the difficulties which threaten them.

Besides it is well known that acknowledgments, explanations and compensations are often accepted as satisfactory from a strong united nation, which would be rejected as unsatisfactory if offered by a state or confederacy of little consideration or power.

In the year 1685 the state of Genoa having offended Louis XIVth, endeavoured to appease him.

He demanded that they should send their *dogs*, or chief magistrate, accompanied by four of their senators to *France* to ask his pardon and receive his terms. They were obliged to submit to it for the sake of peace. Would he on any occasion either have demanded or have received the like humiliation from Spain, or Britain, or any other powerful nation?

PUBLIUS.

NUMBER IV.

The same Subject continued.

MY last paper assigned several reasons why the safety of the people would be best secured by union against the danger it may be exposed to by *just* causes of war given to other nations; and those reasons shew that such causes would not only be more rarely given, but would also be more easily accommodated by a national government, than either by the state governments, or the proposed confederacies.

But the safety of the people of America against dangers from *foreign* force, depends not only on their forbearing to give *just* causes of war to other nations, but also on their placing and continuing themselves in such a situation as not to *invite* hostility or insult; for it need not be observed, that there are *pretended* as well as *just* causes of war.

It is too true, however disgraceful it may be to human nature, that nations in general will make war whenever they have a prospect of getting any thing by it, nay that absolute monarchs will often make war when their nations are to get nothing by it, but for purposes and objects merely personal, such as, a thirst for military glory, revenge for personal affronts, ambition or private compacts to aggrandize or support their particular families, or partizans. These
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and a variety of motives, which affect only the mind of the sovereign, often lead him to engage in wars not sanctified by justice, or the voice and interests of his people. But independent of these inducements to war, which are most prevalent in absolute monarchies, but which well deserve our attention, there are others which affect nations as often as kings; and some of them will on examination be found to grow out of our relative situation and circumstances.

With France and with Britain we are rivals in the fisheries; and can supply their markets cheaper than they can themselves, notwithstanding any efforts to prevent it by bounties on their own, or duties on foreign fish.

With them and most other European nations, we are rivals in navigation and the carrying trade; and we shall deceive ourselves if we suppose that any of them will rejoice to see it flourish: for as our carrying trade cannot increase, without in some degree diminishing their's, it is more their interest and will be more their policy, to restrain, than to promote it.

In the trade to China and India, we interfere with more than one nation, inasmuch as it enables us to partake in advantages which they had in a manner monopolized, and as we thereby supply ourselves with commodities which we used to purchase from them.

The extension of our own commerce in our own vessels, cannot give pleasure to any nations who possess territories on or near this continent, because the cheapness and excellence of our productions, added to the circumstance of vicinity, and the address of our merchants and navigators, or give us a greater share in the advantages territories afford, than consists with the policy of their respective sovereigns.

Spain thinks it convenient to shut against us on the one side, and Britain all other from the St. Lawrence on the other; nor between of them permit the other waters, which

them and us, to become the means of mutual intercourse and traffic.

From these and such like considerations, which might if consistent with prudence, be more amplified and detailed, it is easy to see that jealousies and uneasinesses may gradually slide into the minds and cabinets of other nations; and that we are not to expect they should regard our advancement in union, in power and consequence by land and by sea, with an eye of indifference and composure.

The people of America are aware that inducements to war may arise out of these circumstances, as well as from others not so obvious at present; and that whenever such inducements may find fit time and opportunity for operation, pretences to colour and justify them will not be wanting. Wisely therefore do they consider union and a good national government as necessary to put and keep them in *such a situation* as instead of *inviting* war, will tend to repress and discourage it. That situation consists in the best possible state of defence, and necessarily depends on the government, the arms and the resources of the country.

As the safety of the whole is the interest of the whole, and cannot be provided for without government, either one or more or many, let us inquire whether one good government is not, relative to the object in question, more competent than any other given number whatever.

One government can collect and avail itself of the ~~on~~ experience of the ablest men, in whatever ~~affirm~~ union they may be found. It can move and extrⁱⁿ principles of policy. It can harmonize, to each, protect the several parts and members, ~~the~~ ^{the} ~~inter~~ benefit of its foresight and precautions. In the formation of treaties it will regard ~~of the~~ ^{the} ~~part~~ of the whole, and the particular interests can app^{ear} as connected with that of the whole. It ~~the~~ ^{the} resources and power of the whole to the defence

defence of any particular part, and that more easily and expeditiously than state governments, or separate confederacies can possibly do, for want of concert and unity of system. It can place the militia under one plan of discipline, and by putting their officers in a proper line of subordination to the chief magistrate, will in a manner consolidate them into one corps, and thereby render them more efficient than if divided into thirteen or into three or four distinct independent bodies.

What would the militia of Britain be, if the English militia obeyed the government of England, if the Scotch militia obeyed the government of Scotland, and if the Welch militia obeyed the government of Wales! Suppose an invasion, would those three governments (if they agreed at all) be able with all their respective forces, to operate against the enemy so effectually as the single government of Great-Britain would?

We have heard much of the fleets of Britain, and the time may come, if we are wise, when the fleets of America may engage attention. But if one national government had not so regulated the navigation of Britain as to make it a nursery for seamen—if one national government had not called forth all the national means and materials for forming fleets, their prowess and their thunder would never have been celebrated. Let England have its navigation and fleet—let Scotland have its navigation and fleet—let Wales have its navigation and fleet—let Ireland have its navigation and fleet—let those four of the constituent parts of the British empire be under four independent governments, and it is easy to perceive how soon they would each dwindle into comparative insignificance.

Apply these facts to our own case. Leave America divided into thirteen, or if you please into three or four independent governments, what armies could they raise and pay, what fleets could they ever hope to have? If one was attacked would the other fly to its succour, and spend

spend their blood and money in its defence? Would there be no danger of their being flattered into neutrality by specious promises, or seduced by a too great fondness for peace to decline hazarding their tranquillity and present safety for the sake of neighbours, of whom perhaps they have been jealous, and whose importance they are content to see diminished; Although such conduct would not be wise it would nevertheless be natural. The history of the states of Greece, and of other countries abound with such instances; and it is not improbable that what has so often happened, would under similar circumstances happen again.

But admit that they might be willing to help the invaded state or confederacy. How and when, and in what proportion shall aids of men and money be afforded? Who shall command the allied armies, and from which of them shall he receive his orders? Who shall settle the terms of peace, and in case of disputes what umpire shall decide between them, and compel acquiescence? Various difficulties and inconveniences would be inseparable from such a situation; whereas one government watching over the general and common interests, and combining and directing the powers and resources of the whole, would be free from all these embarrassments and conduce far more to the safety of the people.

But whatever may be our situation, whether firmly united under one national government, or split into a number of confederacies, certain it is, that foreign nations will know and view it exactly as it is, and they will act towards us accordingly. If they see that our national government is efficient and well administered—our trade prudently regulated—our militia properly organized and disciplined—our resources and finances discretely managed—our credit re-established—our people free, contented, and united, they will be much more disposed to cultivate our friendship, than provoke our resentment. If on the other hand they find us either destitute of an effectual govern-
ment.

ment, (each state doing right or wrong as to its rulers may seem convenient), or split into three or four independent and probably discordant republics or confederacies, one inclining to Britain, another to France, and a third to Spain, and perhaps played off against each other by the three, what a poor pitiful figure will America make in their eyes! How liable would she become not only to their contempt, but to their outrage; and how soon would dear bought experience proclaim, that when a people or family is divide, it never fails to be against themselves.

PUBLIUS.

NUMBER V.

The same Subject continued.

QUEEN, Anne, in her letter of the 1st July, 1706, to the Scotch Parliament, makes some observations on the importance of the union then forming between England and Scotland, which merit our attention. I shall present the public with one or two extracts from it. "An entire and perfect union will be the solid foundation of lasting peace: It will secure your religion, liberty and property; remove the animosities amongst yourselves, and the jealousies and differences betwixt your two kingdoms: It must increase your strength, riches and trade; and by this union the whole island, being joined in affection and free from all apprehensions of different interest, will be enabled to resist all its enemies." "We most earnestly recommend to you calmness and unanimity in this great and weighty affair, that the union may be brought to a happy conclusion, being the only effectual way to secure our present and future happiness; and disappoint the designs of our and your enemies, who will doubtless, on this occasion,

"occasion, use their utmost endeavours to prevent or
 "delay this union."

It was remarked in the preceding paper, that weakness and divisions at home, would invite dangers from abroad, and that nothing would tend more to secure us from them than union, strength and good government within ourselves. This subject is copious and cannot easily be exhausted.

The history of Great-Britain is the one with which we are in general the best acquainted, and it gives us many useful lessons. We may profit by their experience, without paying the price which it cost them. Although it seems obvious to common sense, that the people of such an island should be but one nation, yet we find that they were for ages divided into three, and those three were almost constantly embroiled in quarrels and wars with one another. Notwithstanding their true interest, with respect to the continental nations, was really the same, yet by the arts and policy and practices of those nations, their mutual jealousies were perpetually kept enflamed, and for a long series of years they were far more inconvenient and troublesome, than they were useful and assisting to each other.

Should the people of America divide themselves into three or four nations; would not the same thing happen? Would not similar jealousies arise; and be in like manner cherished? Instead of their being "joined in affection and free from all apprehension of different interests," envy and jealousy would soon extinguish confidence and affection, and the partial interest of each confederacy instead of the general interest of all America, would be the only object of their policy and pursuits. Hence like most other *bordering* nations, they would always be either involved in disputes and war, or live in the constant apprehensions of them.

The most sanguine advocates for three or four confederacies, cannot reasonably suppose that they would
 long

long remain exactly on an equal footing in point of strength, even if it was possible to form them so at first; but admitting that to be practicable, yet what human contrivance can secure the continuance of such equality? Independent of those local circumstances which tend to beget and encrease power in one part, and to impede its progress in another, we must advert to the effects of that superior policy and good management which would probably distinguish the government of one above the rest, and by which their relative equality in strength and consideration, would be destroyed. For it cannot be presumed that the same degree of sound policy, prudence and foresight would uniformly be observed by each of these confederacies, for a long succession of years.

Whenever, and from whatever causes, it might happen, and happen it would, that any one of these nations or confederacies, should rise on the scale of political importance much above the degree of their neighbours, that moment would those neighbours behold her with envy and with fear: Both those passions would lead them to countenance, if not to promote whatever might promise to diminish her importance; and would also restrain them from measures calculated to advance, or even to secure her prosperity. Much time would not be necessary to enable her to discern these unfriendly dispositions. She would soon begin, not only to lose confidence in her neighbours, but also to feel a disposition equally unfavourable to them: Distrust naturally creates distrust, and by nothing is good will and kind conduct more speedily changed, than by invidious jealousies and uncandid imputations, whether expressed or implied.

The North is generally the region of strength, and many local circumstances render it probable, that the most northern of the proposed confederacies would, at a period not very distant, be unquestionably more formidable than any of the others. No sooner would this become evident, than the *Northern Hive* would excite the

the same ideas and sensations in the more Southern parts of America, which it formerly did in the Southern parts of Europe; Nor does it appear to be a rash conjecture, that its young swarms might often be tempted to gather honey in the more blooming fields and milder air of their luxurious and more delicate neighbours.

They who well consider the history of similar divisions and confederacies, will find abundant reason to apprehend, that those in contemplation would in no other sense be neighbours, than as they would be borderers; that they would neither love nor trust one another, but on the contrary would be a prey to discord, jealousy and mutual injuries; in short that they would place us exactly in the situation in which some nations doubtless wish to see us, viz. *formidable only to each other.*

From these considerations it appears that those persons are greatly mistaken, who suppose that alliances offensive and defensive might be formed between these confederacies, and would produce that combination and union of wills, of arms, and of resources, which would be necessary to put and keep them in a formidable state of defence against foreign enemies.

When did the independent states into which Britain and Spain were formerly divided, combine in such alliances, or unite their forces against a foreign enemy? The proposed confederacies will be *distinct nations*. Each of them would have its commerce with foreigners to regulate by distinct treaties; and as their productions and commodities are different, and proper for different markets, so would those treaties be essentially different. Different commercial concerns must create different interests, and of course different degrees of political attachment to, and connection with different foreign nations. Hence it might and probably would happen, that the foreign nation with whom the *Southern* confederacy might be at war, would be the one, with whom the *Northern* confederacy would be the most desirous of preserving peace and friendship. An alliance

alliance so contrary to their immediate interest would not therefore be easy to form, nor if formed, would it be observed and fulfilled with perfect good faith.

Nay it is far more probable that in America, as in Europe, neighbouring nations, acting under the impulse of opposite interests, and unfriendly passions, would frequently be found taking different sides. Considering our distance from Europe, it would be more natural for these confederacies to apprehend danger from one another, than from distant nations, and therefore that each of them should be more desirous to guard against the others, by the aid of foreign alliances, than to guard against foreign dangers by alliances between themselves. And here let us not forget how much more easy it is to receive foreign fleets into our ports, and foreign armies into our country, than it is to persuade or compel them to depart. How many conquests did the Romans and others make in the character of allies, and what innovations did they under the same character introduce into the governments of those whom they pretended to protect.

Let candid men judge then whether the division of America into any given number of independent sovereignties would tend to secure us against the hostilities and improper interference of foreign nations.

PUBLIUS.

NUMBER VI.

Concerning Dangers from War between the States.

THE three last numbers of this paper have been dedicated to an enumeration of the dangers to which we should be exposed, in a state of disunion, from the arms and arts of foreign nations. I shall now proceed to delineate dangers of a different, and, perhaps,

perhaps, still more alarming kind, those which will in all probability flow from dissensions between the states themselves, and from domestic factions and convulsions. These have been already in some instances slightly anticipated; but they deserve a more particular and more full investigation.

A man must be far gone in Utopian speculations who can seriously doubt, that if these states should either be wholly disunited, or only united in partial confederacies, the subdivisions into which they might be thrown, would have frequent and violent contests with each other. To presume a want of motives for such contests, as an argument against their existence, would be to forget that men are ambitious, vindictive and rapacious. To look for a continuation of harmony between a number of independent unconnected sovereignties, situated in the same neighbourhood, would be to disregard the uniform course of human events, and to set at defiance the accumulated experience of ages.

The causes of hostility among nations are innumerable. There are some which have a general and almost constant operation upon the collective bodies of society: Of this description are the love of power, or the desire of pre-eminence and dominion—the jealousy of power, or the desire of equality and safety. There are others which have a more circumscribed, though an equally operative influence, within their spheres: Such are the rivalships and competitions of commerce between commercial nations. And there are others, not less numerous than either of the former, which take their origin entirely in private passions; in the attachments, enmities, interests, hopes and fears of leading individuals in the communities of which they are members. Men of this class, whether the favourites of a king or of a people, have in too many instances abused the confidence they possessed; and assuming the pretext of some public motive, have not scrupled to sacrifice the national tranquility to personal advantage, or personal gratification.

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The celebrated Pericles, in compliance with the resentments of a prostitute,* at the expence of much of the blood and treasure of his countrymen, attacked, vanquished and destroyed the city of the *Samnians*. The same man, stimulated by private pique against the *Magarensians*,† another nation of Greece, or to avoid a prosecution with which he was threatned as an accomplice in a supposed theft of the statuary *Phidias*,‡ or to get rid of the accusations prepared to be brought against him for dissipating the funds of the state in the purchase of popularity,|| or from a combination of all these causes, was the primitive author of that famous and fatal war, distinguished in the Grecian annals by the name of the *Peloponnesian* war; which, after various vicissitudes, intermissions and renewals, terminated in the ruin of the Athenian commonwealth.

The ambitious cardinal, who was prime minister to Henry VIIIth. permitting his vanity to aspire to the tripple-crown,§ entertained hopes of succeeding in the acquisition of that splendid prize by the influence of the emperor Charles Vth. To secure the favour and interest of this enterprising and powerful monarch, he precipitated England into a war with France, contrary to the plainest dictates of policy, and at the hazard of the safety and independence, as well of the kingdom over which he presided by his councils, as of Europe in general. For if there ever was a sovereign who bid fair to realise the project of universal monarchy it was the emperor Charles Vth. of whose intrigues Woolsey was at once the instrument and the dupe.

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The

* *ASPASIA*, vide *PLUTARCH*'s life of Pericles.

† ————— Idem.

‡ ————— Idem.

|| ————— Idem.

§ Worn by the Popes.

{ Phidias was supposed to have stolen some public gold with the connivance of Pericles for the embellishment of the statue of Minerva.

The influence which the bigotry of one female,* the petulancies of another,† and the cabals of a third‡ had in the cotemporary policy, ferments and pacifications of a considerable part of Europe, are topics that have been too often descanted upon not to be generally known.

To multiply examples of the agency of personal considerations in the production of great national events, either foreign or domestic, according to their direction, would be an unnecessary waste of time. Those who have but a superficial acquaintance with the sources from which they are to be drawn will themselves recollect a variety of instances; and those who have a tolerable knowledge of human nature will not stand in need of such lights, to form their opinion either of the reality or extent of that agency. Perhaps however a reference, tending to illustrate the general principle, may with propriety be made to a case which has lately happened among ourselves. If SHAYS had not been a *desperate debtor* it is much to be doubted whether Massachusetts would have been plunged into a civil war.

But notwithstanding the concurring testimony of experience, in this particular, there are still to be found visionary, or designing men, who stand ready to advocate the paradox of perpetual peace between the states, though dismembered and alienated from each other. The genius of republics (say they) is pacific; the spirit of commerce has a tendency to soften the manners of men, and to extinguish those inflammable humours which have so often kindled into wars. Commercial republics, like ours, will never be disposed to waste themselves in ruinous contentions with each other. They will be governed by mutual interest, and will cultivate a spirit of mutual amity and concord.

* Madame de Maintenon.

† Dutches of Marlborough.

‡ Madame de Pempadure.

Is it now (we may ask these projectors in politics) the true interest of all nations to cultivate the same benevolent and philosophic spirit? If this be their true interest, have they in fact pursued it? Has it not, on the contrary, invariably been found, that momentary passions and immediate interests have a more active and imperious controul over human conduct than general or remote considerations of policy, utility or justice? Have republics in practice been less addicted to war than monarchies? Are not the former administered by *men* as well as the latter? Are there not aversions, predilections, rivalships and desires of unjust acquisition that affect nations as well as kings? Are not popular assemblies frequently subject to the impulses of rage, resentment, jealousy, avarice, and of other irregular and violent propensities? Is it not well known that their determinations are often governed by a few individuals, in whom they place confidence, and are of course liable to be tainted by the passions and views of those individuals? Has commerce hitherto done any thing more than change the objects of war? Is not the love of wealth as domineering and enterprising a passion as that of power or glory? Have there not been as many wars founded upon commercial motives, since that has become the prevailing system of nations, as were before occasioned by the cupidity of territory or dominion? Has not the spirit of commerce in many instances administered new incentives to the appetite both for the one and for the other? Let experience, the least fallible guide of human opinions, be appealed to for an answer to these enquiries.

Sparta, Athens, Rome and Carthage, were all republics; two of them, Athens and Carthage, of the commercial kind. Yet were they as often engaged in wars, offensive and defensive, as the neighbouring monarchies of the same times. Sparta was little better than a well regulated camp; and Rome was never satiated of carnage and conquest.

Carthage, though a commercial republic, was the aggressor in the very war that ended in her destruction. Hannibal had carried her arms into the heart of Italy and to the gates of Rome, before Scipio, in turn, gave him an overthrow in the territories of Carthage, and made a conquest of the commonwealth.

Venice in latter times figured more than once in wars of ambition; till becoming an object of terror to the other Italian states, Pope Julius the second found means to accomplish that formidable league,* which gave a deadly blow to the power and pride of that haughty republic.

The provinces of Holland, till they were overwhelmed in debts and taxes, took a leading and conspicuous part in the wars of Europe. They had furious contests with England for the dominion of the sea; and were among the most persevering and most implacable of the opponents of Lewis XIV.

In the government of Britain the representatives of the people compose one branch of the national legislature. Commerce has been for ages the predominant pursuit of that country. Few nations nevertheless have been more frequently engaged in war; and the wars, in which that kingdom has been engaged, have in numerous instances proceeded from the people. There have been, if I may so express it, almost as many popular as royal wars. The cries of the nation and the importunities of their representatives have, upon various occasions, dragged their monarchs into war, or continued them in it, contrary to their inclinations, and, sometimes, contrary to the real interests of the state. In that memorable struggle for superiority between the rival houses of *Austria* and *Bourbon*, which so long kept Europe in a flame, it is well known that the antipathies of the English against the French, seconding the ambition, or rather the avarice of a favourite

THE LEAGUE OF CAMERAY, comprehending the Emperor, the King of France, the King of Arragon, and most of the Italian Princes and States,

favourite leader,* protracted the war beyond the limits marked out by sound policy, and for a considerable time in opposition to the views of the court.

The wars of these two last mentioned nations have in a great measure grown out of commercial considerations. The desire of supplanting, and the fear of being supplanted, either in particular branches of traffic, or in the general advantages of trade and navigation; and sometimes even the more culpable desire of sharing in the commerce of other nations, without their consent.

The last war but two between Britain and Spain sprung from the attempts of the English merchants, to prosecute an illicit trade with the Spanish main. These unjustifiable practices on their part produced severities on the part of the Spaniards, towards the subjects of Great-Britain, which were not more justifiable; because they exceeded the bounds of a just retaliation, and were chargeable with inhumanity and cruelty. Many of the English who were taken on the Spanish coasts were sent to dig in the mines of Potosi; and by the usual progress of a spirit of resentment, the innocent were after a while confounded with the guilty in indiscriminate punishment. The complaints of the merchants kindled a violent flame throughout the nation, which soon after broke out in the house of commons, and was communicated from that body to the ministry. Letters of reprisal were granted, and a war ensued, which in its consequences overthrew all the alliances that but twenty years before had been formed, with sanguine expectations of the most beneficial fruits.

From this summary of what has taken place in other countries, whose situations have borne the nearest resemblance to our own, what reason can we have to confide in those reveries, which would seduce us into an expectation of peace and cordiality between the members of the present confederacy, in a state of separation?

* The Duke of Marlborough.

separation? Have we not already seen enough of the fallacy and extravagance of those idle theories which have amused us with promises of an exemption from the imperfections, the weaknesses and the evils incident to society in every shape? Is it not time to awake from the deceitful dream of a golden age, and to adopt as a practical maxim for the direction of our political conduct, that we, as well as the other inhabitants of the globe, are yet remote from the happy empire of perfect wisdom and perfect virtue?

Let the point of extreme depression to which our national dignity and credit have sunk—let the inconveniencies felt every where from a lax and ill administration of government—let the revolt of a part of the state of North Carolina—let the menacing disturbances in Pennsylvania, and the actual insurrections and rebellions in Massachusetts declare!

So far is the general sense of mankind from corresponding with the tenets of those, who endeavour to lull asleep our apprehensions of discord and hostility between the states, in the event of disunion, that it has from long observation of the progress of society become a sort of axiom in politics, that vicinity or nearness of situation, constitutes nations natural enemies. An intelligent writer expresses himself on this subject to this effect—"NEIGHBOURING NATIONS," (says he) are naturally ENEMIES of each other, "unless their common weakness forces them to league in a CONFEDERATE REPUBLIC, and their constitution prevents the differences that neighbourhood occasions, extinguishing that secret jealousy, which disposes all states to aggrandize themselves at the expence of their neighbours." This passage, at the same time points out the EVIL and suggests the REMEDY.

PUBLIUS.

NUMBER

NUMBER VII.

The Subject continued and particular Causes enumerated.

IT is sometimes asked, with an air of seeming triumph, what inducements could the states have, if disunited, to make war upon each other? It would be a full answer to this question to say—precisely the same inducements which have, at different times, deluged in blood all the nations in the world. But unfortunately for us, the question admits of a more particular answer. There are causes of difference within our immediate contemplation, of the tendency of which, even under the restraints of a federal constitution, we have had sufficient experience to enable us to form a judgment of what might be expected, if those restraints were removed.

Territorial disputes have at all times been found one of the most fertile sources of hostility among nations. Perhaps the greatest proportion of the wars that have desolated the earth have sprung from this origin.—This cause would exist, among us, in full force. We have a vast tract of unsettled territory within the boundaries of the United States. There still are discordant and undecided claims between several of them; and the dissolution of the union would lay a foundation for similar claims between them all. It is well known, that they have heretofore had serious and animated discussions concerning the right to the lands which were ungranted at the time of the revolution, and which usually went under the name of crown-lands. The states within the limits of whose colonial governments they were comprised, have claimed them as their property; the others have contended that the rights of the crown in this article devolved upon the union; especially as to all that part of the western territory which, either by actual possession, or through the submission of the Indian proprietors, was subjected

to the jurisdiction of the king of Great-Britain, till it was relinquished in the treaty of peace. This, it has been said, was at all events an acquisition to the confederacy by compact with a foreign power. It has been the prudent policy of congress to appease this controversy, by prevailing upon the states to make cessions to the United States, for the benefit of the whole. This has been so far accomplished, as under a continuation of the union, to afford a decided prospect of an amicable termination of the dispute. A dismemberment of the confederacy however would revive this dispute, and would create others on the same subject. At present, a large part of the vacant western territory is by cession at least, if not by any anterior right, the common property of the union. If that were at an end, the states which have made cessions, on a principle of federal compromise, would be apt, when the motive of the grant had ceased, to reclaim the lands as a reversion. The other states would no doubt insist on a proportion, by right of representation. Their argument would be that a grant, once made, could not be revoked; and that the justice of their participating in territory acquired, or secured by the joint efforts of the confederacy, remained undiminished. If contrary to probability it should be admitted by all the states, that each had a right to a share of this common stock, there would still be a difficulty to be surmounted, as to a proper rule of apportionment. Different principles would be set up by different states for this purpose; and as they would affect the opposite interest of the parties, they might not easily be susceptible of a pacific adjustment.

In the wide field of western territory, therefore, we perceive an ample theatre for hostile pretensions, without any umpire or common judge to interpose between the contending parties. To reason from the past to the future we shall have good ground to apprehend, that the sword would sometimes be appealed to as the arbiter of their differences. The circumstances

stances of the dispute between Connecticut and Pennsylvania, respecting the lands at Wyoming, admonish us, not to be sanguine in expecting an easy accommodation of such differences. The articles of confederation obliged the parties to submit the matter to the decision of a federal court. The submission was made, and the court decided in favour of Pennsylvania. But Connecticut gave strong indications of dissatisfaction with that determination; nor did she appear to be intirely resigned to it, till by negotiation and management something like an equivalent was found for the loss she supposed herself to have sustained. Nothing here said is intended to convey the slightest censure on the conduct of that state. She no doubt sincerely believed herself to have been injured by the decision; and states, like individuals, acquiesce with great reluctance in determinations to their disadvantage.

Those who had an opportunity of seeing the inside of the transactions, which attended the progress of the controversy between this state and the district of Vermont, can vouch the opposition we experienced, as well from states not interested as from those which were interested in the claim; and can attest the danger to which the peace of the confederacy might have been exposed, had this state attempted to assert its rights by force. Two motives preponderated in that opposition—one a jealousy entertained of our future power, and the other, the interest of certain individuals of influence in the neighbouring states, who had obtained grants of lands under the actual government of that district. Even the states which brought forward claims, in contradiction to ours, seemed more solicitous to dismember this state, than to establish their own pretensions. These were New-Hampshire, Massachusetts and Connecticut. New-Jersey and Rhode-Island, upon all occasions, discovered a warm zeal for the independence of Vermont; and Maryland, until alarmed by the appearance of a connection between Canada

Canada and that place, entered deeply into the same views. These being small states, saw with an unfriendly eye the perspective of our growing greatness. In a review of these transactions we may trace some of the causes, which would be likely to embroil the states with each other, if it should be their unpropitious destiny to become disunited.

The competitions of commerce would be another fruitful source of contention. The states less favourably circumstanced would be desirous of escaping from the disadvantages of local situation, and of sharing in the advantages of their more fortunate neighbours. Each state, or separate confederacy, would pursue a system of commercial polity peculiar to itself. This would occasion distinctions, preferences and exclusions, which would beget discontent. The habits of intercourse, on the basis of equal privileges, to which we have been accustomed from the earliest settlement of the country, would give a keener edge to those causes of discontent, than they would naturally have, independent of this circumstance. *We should be ready to denominate injuries those things which were in reality the justifiable acts of independent sovereignties consulting a distinct interest.* The spirit of enterprise, which characterises the commercial part of America, has left no occasion of displaying itself unimproved. It is not at all probable that this unbridled spirit would pay much respect to those regulations of trade, by which particular states might endeavour to secure exclusive benefits to their own citizens. The infractions of these regulations on one side, the efforts to prevent and repel them on the other, would naturally lead to outrages, and these to reprisals and wars.

The opportunities, which some states would have of rendering others tributary to them, by commercial regulations, would be impatiently submitted to by the tributary states. The relative situation of New-York, Connecticut and New-Jersey, would afford an example of this kind. New-York, from the necessities

of revenue, must lay duties on her importations. A great part of these duties must be paid by the inhabitants of the two other states in the capacity of consumers of what we import. New-York would neither be willing nor able to forego this advantage. Her citizens would not consent that a duty paid by them should be remitted in favour of the citizens of her neighbours; nor would it be practicable, if there were not this impediment in the way, to distinguish the customers in our own markets. Would Connecticut and New-Jersey long submit to be taxed by New-York for her exclusive benefit? Should we be long permitted to remain in the quiet and undisturbed enjoyment of a metropolis, from the possession of which we derived an advantage so odious to our neighbours, and, in their opinion, so oppressive? Should we be able to preserve it against the incumbent weight of Connecticut on the one side, and the co-operating pressure of New-Jersey on the other? These are questions that temerity alone will answer in the affirmative.

The public debt of the union would be a further cause of collision between the separate states or confederacies. The apportionment, in the first instance, and the progressive extinguishment, afterwards, would be alike productive of ill-humour and animosity. How would it be possible to agree upon a rule of apportionment satisfactory to all? There is scarcely any, that can be proposed, which is intirely free from real objections. These, as usual, would be exaggerated by the adverse interests of the parties. There are even dissimilar views among the states, as to the general principle of discharging the public debt. Some of them, either less impressed with the importance of national credit, or because their citizens have little, if any, immediate interest in the question, feel an indifference, if not a repugnance to the payment of the domestic debt, at any rate. These would be inclined to magnify the difficulties of a distribution. Others of them, a numerous body of whose citizens are credi-

tors to the public, beyond the proportion of the state in the total amount of the national debt, would be strenuous for some equitable and effectual provision. The procrastinations of the former would excite the resentments of the latter. The settlement of a rule would in the mean time be postponed, by real differences of opinion and affected delays. The citizens of the state interested, would clamour, foreign powers would urge for the satisfaction of their just demands; and the peace of the states would be hazarded to the double contingency of external invasion and internal contention.

Suppose the difficulties of agreeing upon a rule surmounted, and the apportionment made. Still there is great room to suppose, that the rule agreed upon would, upon experiment, be found to bear harder upon some states than upon others. Those which were sufferers by it would naturally seek for a mitigation of the burthen. The others would as naturally be disinclined to a revision, which was likely to end in an increase of their own incumbrances. Their refusal would be too plausible a pretext to the complaining states to withhold their contributions, not to be embraced with avidity; and the non-compliance of these states with their engagements would be a ground of bitter dissention and altercation. If even the rule adopted should in practice justify the equality of its principle, still delinquencies in payment, on the part of some of the states, would result from a diversity of other causes—the real deficiency of resources—the mismanagement of their finances, accidental disorders in the administration of the government, and in addition to the rest, the reluctance with which men commonly part with money for purposes, that have outlived the exigencies which produced them, and interfere with the supply of immediate wants. Delinquencies from whatever causes would be productive of complaints, recriminations and quarrels. There is perhaps nothing more likely to disturb the tranquility of nations, than their being bound to mutual contributions for

my common object, which does not yield an equal and coincident benefit. For it is an observation as true, as it is trite, that there is nothing men differ so readily about as the payment of money.

Laws in violation of private contracts as they amount to aggressions on the rights of those states, whose citizens are injured by them, may be considered as another probable source of hostility. We are not authorized to expect, that a more liberal or more equitable spirit would preside over the legislations of the individual states hereafter, if unrestrained by any additional checks, than we have heretofore seen, in too many instances, disgracing their several codes. We have observed the disposition to retaliation excited in Connecticut, in consequence of the enormities perpetrated by the legislature of Rhode-Island; and we may reasonably infer, that in similar cases, under other circumstances, a war not of *parchment* but of the sword would chastise such atrocious breaches of moral obligation and social justice.

The probability of incompatible alliances between the different states, or confederacies, and different foreign nations, and the effects of this situation upon the peace of the whole, have been sufficiently unfolded in some preceding papers. From the view they have exhibited of this part of the subject, this conclusion is to be drawn, that America, if not connected at all, or only by the feeble tie of a simple league offensive and defensive, would by the operation of such opposite andarring alliances be gradually entangled in all the pernicious labyrinths of European politics and wars; and by the destructive contentions of the parts, into which she was divided, would be likely to become a prey to the artifices and machinations of powers equally the enemies of them all. *Divide et impera** must be the motto of every nation, that either hates or fears us.

PUBLIUS

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NUMBER.

* Divide and command.

NUMBER VIII.

The Effects of internal War in producing standing Armies and other Institutions unfriendly to Liberty.

ASSUMING it therefore as an established truth that the several states, in case of disunion, or such combinations of them as might happen to be formed out of the wreck of the general confederacy, would be subject to those vicissitudes of peace and war, of friendship and enmity with each other, which have fallen to the lot of all neighbouring nations not united under one government, let us enter into a concise detail of some of the consequences that would attend such a situation.

War between the states, in the first periods of their separate existence, would be accompanied with much greater distresses than it commonly is in those countries, where regular military establishments have long obtained. The disciplined armies always kept on foot on the continent of Europe, though they bear a malignant aspect to liberty and economy, have notwithstanding been productive of the signal advantage of rendering sudden conquests impracticable, and of preventing that rapid desolation, which used to mark the progress of war, prior to their introduction. The art of fortification has contributed to the same ends. The nations of Europe are encircled with chains of fortified places, which mutually obstruct invasion. Campaigns are wasted in reducing two or three frontier garrisons, to gain admittance into an enemy's country. Similar impediments occur at every step, to exhaust the strength and delay the progress of an invader. Formerly an invading army would penetrate into the heart of a neighbouring country, almost as soon as intelligence of its approach could be received;

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ceived; but now a comparatively small force of disciplined troops, acting on the defensive with the aid of posts, is able to impede and finally to frustrate the enterprises of one much more considerable. The history of war, in that quarter of the globe, is no longer a history of nations subdued and empires overturned, but of towns taken and retaken, of battles that decide nothing, of retreats more beneficial than victories, of much effort and little acquisition.

In this country the scene would be altogether reversed. The jealousy of military establishments would postpone them as long as possible. The want of fortifications leaving the frontiers of one state open to another, would facilitate inroads. The populous states would with little difficulty over-run their less populous neighbours. Conquests would be as easy to be made as difficult to be retained. War therefore would be desultory and predatory. Plunder and devastation ever march in the train of irregulars. The calamities of individuals would make the principal figure in the events, which would characterise our military exploits.

This picture is not too highly wrought, though I confess, it would not long remain a just one. Safety from external danger is the most powerful director of national conduct. Even the ardent love of liberty will, after a time, give way to its dictates. The violent destruction of life and property incident to war—the continual effort and alarm attendant on a state of continual danger, will compel nations the most attached to liberty, to resort for repose and security, to institutions which have a tendency to destroy their civil and political rights. To be more safe, they at length become willing to run the risk of being less free.

The institutions chiefly alluded to are **STANDING ARMIES**, and the correspondent appendages of military establishment. Standing armies, it is said, are not provided against in the new constitution, and it is

thence infered that they would exist under it.* This inference, from the very form of the proposition, is, at best, problematical and uncertain. But **STANDING ARMIES**, it may be replied, must inevitably result from a dissolution of the confederacy. Frequent war, and constant apprehension, which require a state of as constant preparation will infallibly produce them. The weaker states, or confederacies, would first have recourse to them, to put themselves upon an equality with their more potent neighbours. They would endeavour to supply the inferiority of population and resources, by a more regular and effective system of defence, by disciplined troops and by fortifications. They would at the same time, be necessitated to strengthen the executive arm of government; in doing which, their constitutions would acquire a progressive direction towards monarchy. It is of the nature of war to increase the executive at the expence of the legislative authority.

The expedients which have been mentioned would soon give the states, or confederacies, that made use of them, a superiority over their neighbours. Small states, or states of less natural strength, under vigorous governments, and with the assistance of disciplined armies, have often triumphed over large states, or states of greater natural strength, which have been destitute of these advantages. Neither the pride, nor the safety of the more important states, or confederacies, would permit them long to submit to this mortifying and adventitious inferiority. They would quickly resort to means similar to those by which it had been effected, to reinstate themselves in their lost pre-eminence. Thus we should in a little time see established in every part of this country, the same engines

* This objection will be fully examined in its proper place, and it will be shown that the only rational precaution which could have been taken on this subject, has been taken; and a much better one than is to be found in any constitution that has been heretofore framed in America, most of which contain no guard at all on this subject.

engines of despotism which have been the scourge of the old world. This at least would be the natural course of things, and our reasonings will be the more likely to be just, in proportion as they are accommodated to this standard.

These are not vague inferences, drawn from supposed or speculative defects in a constitution, the whole power of which is lodged in the hands of the people, or their representatives and delegates, but they are solid conclusions drawn from the natural and necessary progress of human affairs.

It may perhaps be asked, by way of objection to this, why did not standing armies spring up out of the contentions which so often distracted the antient republics of Greece? Different answers equally satisfactory, may be given to this question. The industrious habits of the people of the present day, absorbed in the pursuits of gain, and devoted to the improvements of agriculture and commerce, are incompatible with the condition of a nation of soldiers, which was the true condition of the people of those republics. The means of revenue, which have been so greatly multiplied by the encrease of gold and silver, and of the arts of industry, and the science of finance, which is the offspring of modern times, concurring with the habits of nations, have produced an entire revolution in the system of war, and have rendered disciplined armies, distinct from the body of the citizens, the inseparable companion of frequent hostility.

There is a wide difference also, between military establishments in a country, seldom exposed by its situation to internal invasions, and in one which is often subject to them, and always apprehensive of them. The rulers of the former can have no good pretext, if they are even so inclined, to keep on foot armies so numerous as must of necessity be maintained in the latter. These armies being, in the first case, rarely, if at all, called into activity for interior defence, the people are in no danger of being broken to mili-

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tary subordination. The laws are not accustomed to relaxations, in favour of military exigencies—the civil state remains in full vigor, neither corrupted nor confounded with the principles or propensities of the other state. The smallness of the army renders the natural strength of the community an overmatch for it, and the citizens, not habituated to look up to the military power for protection, or to submit to its oppressions, neither love nor fear the soldiery: They view them with a spirit of jealous acquiescence in a necessary evil, and stand ready to resist a power which they suppose may be exerted to the prejudice of their rights.

The army under such circumstances, may usefully aid the magistrate to suppress a small faction, or an occasional mob, or insurrection; but it will be unable to enforce encroachments against the united efforts of the great body of the people.

In a country, in the predicament last described, the contrary of all this happens. The perpetual menacings of danger oblige the government to be always prepared to repel it—its armies must be numerous enough for instant defence. The continual necessity for their services enhances the importance of the soldier, and proportionally degrades the condition of the citizen. The military state becomes elevated above the civil. The inhabitants of territories, often the theatre of war, are unavoidably subjected to frequent infringements on their rights, which serve to weaken their sense of those rights; and by degrees, the people are brought to consider the soldiery not only as their protectors, but as their superiors. The transition from this disposition to that of considering them as masters, is neither remote, nor difficult: But it is very difficult to prevail upon a people under such impressions, to make a bold, or effectual resistance, to usurpations, supported by the military power.

The kingdom of Great Britain falls within the first description. An insular situation, and a powerful marine, guarding it in a great measure against the

the possibility of foreign invasion, supersede the necessity of a numerous army within the kingdom. A sufficient force to make head against a sudden descent till the militia could have time to rally and embody, is all that has been deemed requisite. No motive of national policy has demanded, nor would public opinion have tolerated a larger number of troops upon its domestic establishment. There has been, for a long time past, little room for the operation of the other causes, which have been enumerated as the consequences of internal war. This peculiar felicity of situation has, in a great degree, contributed to preserve the liberty, which that country to this day enjoys, in spite of the prevalent venality and corruption. If, on the contrary, Britain had been situated on the continent and had been compelled, as she would have been by that situation, to make her military establishments at home co-extensive with those of the other great powers of Europe, she, like them would in all probability, be at this day a victim to the absolute power of a single man. 'Tis possible, though not easy, that the people of that island may be enslaved from other causes, but it cannot be by the prowess of an army so inconsiderable as that which has been usually kept up within the kingdom.

If we are wise enough to preserve the union, we may for ages enjoy an advantage similar to that of an insulated situation. Europe is at a great distance from us. Her colonies in our vicinity, will be likely to continue too much disproportioned in strength, to be able to give us any dangerous annoyance. Extensive military establishments cannot, in this position be necessary to our security. But if we should be disunited, and the integral parts should either remain separated, or which is most probable, should be thrown together into two or three confederacies, we should be in a short course of time, in the predicament of the continental powers of Europe. Our liberties would be a prey to

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the means of defending ourselves against the ambition and jealousy of each other.

This is an idea not superficial nor futile, but solid and weighty. It deserves the most serious and mature consideration of every prudent and honest man of whatever party. If such men will make a firm and solemn pause, and meditate dispassionately on the importance of this interesting idea, if they will contemplate it, in all its attitudes, and trace it to all its consequences, they will not hesitate to part with trivial objections to a constitution, the rejection of which would in all probability put a final period to the union. The airy phantoms that flit before the distempered imaginations of some of its adversaries, would quickly give place to the more substantial prospects of dangers real, certain, and formidable.

PUBLIUS.

NUMBER IX.

The Utility of the Union as a Safeguard against domestic Faction and Insurrection.

A Firm union will be of the utmost moment to the peace and liberty of the states as a barrier against domestic faction and insurrection. It is impossible to read the history of the petty republics of Greece and Italy, without feeling sensations of horror and disgust at the distractions with which they were continually agitated, and at the rapid succession of revolutions, by which they were kept in a state of perpetual vibration, between the extremes of tyranny and anarchy. If they exhibit occasional calms, these only serve as shortlived contrasts to the furious storms that are to succeed. If now and then intervals of felicity open themselves to view, we behold them with a mixture of regret arising from the reflection, that the

the pleasing scenes before us are soon to be overwhelmed by the tempestuous waves of sedition and party rage. If momentary rays of glory break forth from the gloom, while they dazzle us with a transient and fleeting brilliancy, they at the same time admonish us to lament that the vices of government should pervert the direction and tarnish the lustre of those bright talents and exalted endowments, for which the favoured soils, that produced them, have been so justly celebrated.

From the disorders that disfigure the annals of those republics, the advocates of despotism have drawn arguments, not only against the forms of republican government, but against the very principles of civil liberty. They have decried all free government, as inconsistent with the order of society, and have indulged themselves in malicious exultation over its friends and partizans. Happily for mankind, stupendous fabrics reared on the basis of liberty, which have flourished for ages, have in a few glorious instances refuted their gloomy sophisms. And, I trust, America will be the broad and solid foundation of other edifices not less magnificent, which will be equally permanent monuments of their errors.

But it is not to be denied that the portraits they have sketched of republican government, were too just copies of the originals from which they were taken. If it had been found impracticable, to have devised models of a more perfect structure, the enlightened friends to liberty would have been obliged to abandon the cause of that species of government as indefensible. The science of politics, however, like most other sciences, has received great improvement. The efficacy of various principles is now well understood, which were either not known at all, or imperfectly known to the antients. The regular distribution of power into distinct departments—the introduction of legislative ballances and checks—the institution of courts composed of judges, holding their offices during good behaviour

behaviour—the representation of the people in the Legislature by deputies of their own election—these are either wholly new discoveries, or have made their principal progress towards perfection in modern times. They are means, and powerful means, by which the excellencies of republican government may be retained, and its imperfections lessened or avoided. To this catalogue of circumstances, that tend to the amelioration of popular systems of civil government, I shall venture, however novel it may appear to some, to add one more on a principle, which has been made the foundation of an objection to the new constitution. I mean the ENLARGEMENT of the ORBIT within which such systems are to revolve, either in respect to the dimensions of a single state, or to the consolidation of several smaller states into one great confederacy. The latter is that which immediately concerns the object under consideration. It will however be of use to examine the principle in its application to a single state, which shall be attended to in another place.

The utility of a confederacy, as well to suppress faction and to guard the internal tranquility of states, as to increase their external force and security, is a reality not a new idea. It has been practised upon in different countries and ages, and has received the sanction of the most applauded writers on the subject of politics. The opponents of the PLAN proposed have with great assiduity cited and circulated the observations of Montesquieu, on the necessity of a contracted territory for a republican government. But they seem not to have been apprised of the sentiments of that great man expressed in another part of his work, not to have adverted to the consequences of the principle to which they subscribe, with such ready acquiescence.

When Montesquieu recommends a small extent to republics, the standards he had in view were of dimensions, far short of the limits of almost every one of these states. Neither Virginia, Massachusetts, Pennsylvania

Pennsylvania, New-York, North-Carolina nor Georgia, can by any means be compared with the models from which he reasoned, and to which the terms of his discription apply. If we therefore take his ideas on this point, as the criterion of truth, we shall be driven to the alternative, either of taking refuge at once in the arms of monarchy, or of splitting ourselves into an infinity of little, jealous, clashing, tumultuous commonwealths, the wretched nurseries of unceasing discord and the miserable objects of universal pity or contempt. Some of the writers, who have come forward on the other side of the question, seem to have been aware of the dilemma; and have even been bold enough to hint at the division of the larger states, as a desirable thing. Such an infatuated policy, such a desperate expedient, might by the multiplication of petty offices answer the views of men, who possess not qualifications to extend their influence beyond the narrow circles of personal intrigue, but it could never promote the greatness or happiness of the people of America.

Referring the examination of the principle itself to another place, as has been already mentioned, it will be sufficient to remark here, that in the sense of the author who has been most emphatically quoted upon the occasion, it would only dictate a reduction of the size of the more considerable MEMBERS of the union; but would not militate against their being all comprehended in one confederate government. And this is the true question, in the discussion of which we are at present interested.

So far are the suggestions of Montesquieu from standing in opposition to a general union of the states, that he explicetely treats of a CONFEDERATE REPUBLIC as the expedient for extending the sphere of popular government and reconciling the advantages of monarchy with those of republicanism.

“It is very probable (says he*) that mankind would have been obliged at length, to live constantly

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* Spirit of Laws, Vol. I, Book IX, Chap. I.

“ under the government of a SINGLE PERSON, had
 “ they not contrived a kind of constitution, that has all
 “ the internal advantages of a republican, together
 “ with the external force of a monarchical govern-
 “ ment. I mean a CONFEDERATE REPUBLIC.

“ This form of government is a convention, by
 “ which several smaller *states* agree to become mem-
 “ bers of a larger *one*, which they intend to form. It
 “ is a kind of assemblage of societies that constitute a
 “ new one, capable of encreasing by means of new
 “ associations, till they arrive to such a degree of
 “ power as to be able to provide for the security of
 “ the united body.

“ A republic of this kind, able to withstand an ex-
 “ ternal force, may support itself without any internal
 “ corruption. The form of this society prevents all
 “ manner of inconveniences.

“ If a single member should attempt to usurp the
 “ supreme authority, he could not be supposed to have
 “ an equal authority and credit in all the confederate
 “ states. Were he to have too great influence over
 “ one, this would alarm the rest. Were he to subdue
 “ a part, that which would still remain free might
 “ oppose him with forces, independent of those which
 “ he had usurped, and overpower him before he could
 “ be settled in his usurpation.

“ Should a popular insurrection happen in one of
 “ the confederate states, the others are able to quell
 “ it. Should abuses creep into one part, they are
 “ reformed by those that remain sound. The state
 “ may be destroyed on one side, and not on the other ;
 “ the confederacy may be dissolved, and the conse-
 “ derates preserve their sovereignty.

“ As this government is composed of small republics
 “ it enjoys the internal happiness of each, and with
 “ respect to its external situation it is possessed, by
 “ means of the association of all the advantages of
 “ large monarchies.”

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I have thought it proper to quote at length these interesting passages, because they contain a luminous abridgment of the principal arguments in favour of the union, and must effectually remove the false impressions, which a misapplication of other parts of the work was calculated to produce. They have at the same time an intimate connection with the more immediate design of this paper; which is to illustrate the tendency of the union to repress domestic faction and insurrection.

A distinction, more subtle than accurate, has been raised between a *confederacy* and a *consolidation* of the states. The essential characteristic of the first is said to be, the restriction of its authority to the members in their collective capacities, without reaching to the individuals of whom they are composed. It is contended that the national council ought to have no concern with any object of internal administration. An exact equality of suffrage between the members has also been insisted upon as a leading feature of a confederate government. These positions are in the main arbitrary; they are supported neither by principle nor precedent. It has indeed happened that governments of this kind have generally operated in the manner, which the distinction, taken notice of, supposes to be inherent in their nature—but there have been in most of them extensive exceptions to the practice, which serve to prove, as far as example will go, that there is no absolute rule on the subject. And it will be clearly shewn, in the course of this investigation, that as far as the principle contended for has prevailed, it has been the cause of incurable disorder and imbecility in the government.

The definition of a *confederate republic* seems simply to be, an “assemblage of societies,” or an association of two or more states into one state. The extent, modifications and objects of the federal authority are mere matters of discretion. So long as the separate organization of the members be not abolished, so

long as it exists by a constitutional necessity for local purposes, though it should be in perfect subordination to the general authority of the union, it would still be, in fact and in theory, an association of states, or a confederacy. The proposed constitution, so far from implying an abolition of the state governments, makes them constituent parts of the national sovereignty by allowing them a direct representation in the senate, and leaves in their possession certain exclusive and very important portions of sovereign power. This fully corresponds, in every rational import of the terms, with the idea of a federal government.

In the Lycian confederacy, which consisted of twenty-three CITIES, or republics, the largest were intitled to *three* votes in the COMMON COUNCIL, those of the middle class to *two*, and the smallest to *one*. The COMMON COUNCIL had the appointment of all the judges and magistrates of the respective CITIES. This was certainly the most delicate species of interference in their internal administration; for there be any thing that seems exclusively appropriate to the local jurisdictions, it is the appointment of their own officers. Yet Montesquieu, speaking of this association, says, "Were I to give a model of an excellent confederate republic, it would be that of Lycia." Thus we perceive that the distinctions insisted upon were not within the contemplation of this enlightened Civilian, and we shall be led to conclude, that they are the novel refinements of an erroneous theory.

PUBLIUS

NUMBER X.

The same Subject continued.

AMONG the numerous advantages promised by a well constructed union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular government

governments, never finds himself so much alarmed for their character and fate, as when he contemplates their propensity to this dangerous vice. He will not fail therefore to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it. The instability, injustice and confusion introduced into the public councils, have in truth been the mortal diseases under which popular governments have every where perished; as they continue to be the favorite and fruitful topics from which the adversaries to liberty derive their most specious declamations. The valuable improvements made by the American constitutions on the popular models, both antient and modern, cannot certainly be too much admired; but it would be an unwarrantable partiality, to contend that they have as effectually obviated the danger on this side as was wished and expected. Complaints are every where heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty; that our governments are too unstable; that the public good is disregarded in the conflicts of rival parties; and that measures are too often decided, not according to the rules of justice, and the rights of the minor party; but by the superior force of an interested and overbearing majority. However anxiously we may wish that these complaints had no foundation, the evidence of known facts will not permit us to deny that they are in some degree true. It will be found indeed, on a candid review of our situation, that some of the distresses under which we labour, have been erroneously charged on the operation of our governments; but it will be found at the same time, that other causes will not alone account for many of our heaviest misfortunes; and particularly, for that prevailing and increasing distrust of public engagements, and alarm for private rights, which are echoed from one end of the continent to the other. These must be chiefly, if not wholly,

wholly, effects of the unsteadiness and injustice, with which a factious spirit has tainted our public administration.

By a faction I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

There are two methods of curing the mischiefs of faction: The one, by removing its causes; the other, by controlling its effects.

There are again two methods of removing the causes of faction: The one by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.

It could never be more truly said than of the first remedy, that it is worse than the disease. Liberty is to faction, what air is to fire, an aliment without which it instantly expires. But it could not be a less folly to abolish liberty, which is essential to political life, because it nourishes faction, than it would be to wish the annihilation of air, which is essential to animal life because it imparts to fire its destructive agency.

The second expedient is as impracticable, as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. The diversity in the faculties of men from which the rights of property originate, is not less an insuperable obstacle to an uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees

and kinds of property immediately results: And from the influence of these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; and we see them every where brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have in turn divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other, than to co-operate for their common good. So strong is this propensity of mankind to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions, and excite their most violent conflicts. But the most common and durable source of factions, has been the various and unequal distribution of property. Those who hold, and those who are without property, have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a monied interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of government.

No man is allowed to be a judge in his own cause; because his interest would certainly bias his judgment,

ment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men, are unfit to be both judges and parties, at the same time; yet, what are many of the most important acts of legislation, but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens; and what are the different classes of legislators, but advocates and parties to the causes which they determine? Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side, and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are and must be themselves the judges; and the most numerous party, or, in other words, the most powerful faction must be expected to prevail. Shall domestic manufactures be encouraged, and in what degree, by restrictions on foreign manufactures? Are questions which would be differently decided by the landed and the manufacturing classes; and probably by neither, with a sole regard to justice and the public good. The apportionment of taxes on the various descriptions of property, is an act which seems to require the most exact impartiality, yet there is perhaps no legislative act in which greater opportunity and temptation are given to a predominant party, to trample on the rules of justice. Every shilling with which they over-burden the inferior number, is a shilling saved to their own pockets.

It is in vain to say, that enlightened statesmen will be able to adjust these clashing interests, and render them all subservient to the public good. Enlightened statesmen will not always be at the helm: Nor, in many cases, can such an adjustment be made at all, without taking into view indirect and remote considerations, which will rarely prevail over the immediate interest which one party may find in disregarding the rights of another, or the good of the whole.

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The inference to which we are brought, is, that the *causes* of faction cannot be removed; and that relief is only to be sought in the means of controlling its *effects*.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote: It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the constitution. When a majority is included in a faction, the form of popular government on the other hand enables it to sacrifice to its ruling passion or interest, both the public good and the rights of other citizens. To secure the public good, and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our enquiries are directed. Let me add that it is the great desideratum, by which alone this form of government can be rescued from the opprobrium under which it has so long labored, and be recommended to the esteem and adoption of mankind.

By what means is this object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority at the same time, must be prevented; or the majority, having such co-existent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together; that is, in proportion as their efficacy becomes needful.

From this view of the subject, it may be concluded that a pure democracy, by which I mean a society, consisting

consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert results from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party, or an obnoxious individual. Hence it is, that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security, or the rights of property; and have in general been as short in their lives, as they have been violent in their deaths.—Theoretic politicians, who have patronized this species of government, have erroneously supposed, that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized, and assimilated in their possessions, their opinions and their passions.

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure, and the efficacy which it must derive from the union.

The two great points of difference between a democracy and a republic, are first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.

The effect of the first difference is, on the one hand, to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice, will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen

happen that the public voice pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests of the people. The question resulting is, whether small or extensive republics are most favourable to the election of proper guardians of the public weal; and it is nearly decided in favour of the latter by two obvious considerations.

In the first place it is to be remarked, that however small the republic may be, the representatives must be limited to a certain number, in order to guard against the cabals of a few; and that however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude. Hence the number of representatives in the two cases not being in proportion to that of the constituents, and being proportionally greatest in the small republic, it follows, that if the proportion of fit characters be not less in the large than in the small republic, the former will present a greater option, and consequently a greater probability of a fit choice.

In the next place, as each representative will be chosen by a greater number of citizens in the large republic than in the small republic, it will be more difficult for unworthy candidates to practise with success the vicious arts, by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre on men who possess the most attractive merit, and the most diffusive and established characters.

It must be confessed, that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representative

sentative too little acquainted with all their local circumstances and lesser interests; as by reducing too much, you render him unduly attached to them, and too little fit to comprehend and pursue great and national objects. The federal constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the state legislatures.

The other point of difference is, the greater number of citizens and extent of territory which may be brought within the compass of republican, than of democratic government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former, than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other. Besides other impediments, it may be remarked, that where there is a consciousness of unjust or dishonourable purposes, communication is always checked by distrust, in proportion to the number whose concurrence is necessary.

Hence it clearly appears, that the same advantage which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over a small republic—is enjoyed by the union over the states composing it. Does this advantage consist in the substitution of representatives, whose enlightened views

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virtuous sentiments render them superior to local prejudices, and to schemes of injustice? It will not be denied, that the representation of the union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the encreased variety of parties, comprised within the union, encrease this security. Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the union gives it the most palpable advantage.

The influence of factious leaders may kindle a flame within their particular states, but will be unable to spread a general conflagration through the other states: A religious sect, may degenerate into a political faction in a part of the confederacy; but the variety of sects dispersed over the entire face of it, must secure the national councils against any danger from that source: A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the union, than a particular member of it; in the same proportion as such a malady is more likely to taint a particular county or district, than an entire state.

In the extent and proper structure of the union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride, we feel in being republicans, ought to be our zeal in cherishing the spirit, and supporting the character of federalists.

PUBLIUS.

NUMBER XI.

The Utility of the Union in Respect to Commerce and a Navy.

THE importance of the union, in a commercial light, is one of those points, about which there is least room to entertain a difference of opinion, and which has in fact commanded the most general assent of men, who have any acquaintance with the subject. This applies as well to our intercourse with foreign countries, as with each other.

There are appearances to authorise a supposition, that the adventurous spirit, which distinguishes the commercial character of America, has already excited uneasy sensations in several of the maritime powers of Europe. They seem to be apprehensive of our too great interference in that carrying trade, which is the support of their navigation and the foundation of their naval strength. Those of them, which have colonies in America, look forward, to what this country is capable of becoming, with painful solicitude. They foresee the dangers, that may threaten their American dominions from the neighbourhood of states, which have all the dispositions, and would possess all the means, requisite to the creation of a powerful marine. Impressions of this kind will naturally indicate the policy of fostering divisions among us, and of depriving us as far as possible of an ACTIVE COMMERCE in our own bottoms. This would answer the three-fold purpose of preventing our interference in their navigation, of monopolising the profits of our trade, and of clipping the wings, by which we might soar to a dangerous greatness. Did not prudence forbid the detail, it would not be difficult to trace by facts the workings of this policy to the cabinets of ministers.

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If we continue united, we may counteract a policy so unfriendly to our prosperity in a variety of ways. By prohibitory regulations, extending at the same time throughout the states, we may oblige foreign countries to bid against each other, for the privileges of our markets. This assertion will not appear chimerical to those who are able to appreciate the importance to any manufacturing nation of the markets of three millions of people—increasing in rapid progression, for the most part exclusively addicted to agriculture, and likely from local circumstances to remain in this disposition; and the immense difference there would be to the trade and navigation of such a nation, between a direct communication in its own ships, and an indirect conveyance of its products and returns, to and from America, in the ships of another country. Suppose, for instance, we had a government in America, capable of excluding Great-Britain (with whom we have at present no treaty of commerce) from all our ports, what would be the probable operation of this step upon her politics? Would it not enable us to negotiate with the fairest prospect of success for commercial privileges of the most valuable and extensive kind in the dominions of that kingdom? When these questions have been asked, upon other occasions, they have received a plausible but not a solid or satisfactory answer. It has been said, that prohibitions on our part would produce no change in the system of Britain; because she could prosecute her trade with us, through the medium of the Dutch, who would be her immediate customers and pay-masters for those articles which were wanted for the supply of our markets. But would not her navigation be materially injured, by the loss of the important advantage of being her own carrier in that trade? Would not the principal part of its profits be intercepted by the Dutch, as a compensation for their agency and risk? Would not the mere circumstance of freight occasion a considerable deduction? Would not so circuitous an

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intercourse facilitate the competitions of other nations, by enhancing the price of British commodities in our markets, and by transferring to other hands the management of this interesting branch of the British commerce?

A mature consideration of the objects, suggested by these questions, will justify a belief, that the real disadvantages to Great Britain, from such a state of things, conspiring with the prepossessions of a great part of the nation in favour of the American trade, and with the importunities of the West-India islands, would produce a relaxation in her present system, and would let us into the enjoyment of privileges in the markets of those islands and elsewhere, from which our trade would derive the most substantial benefits. Such a point gained from the British government, and which could not be expected without an equivalent in exemptions and immunities in our markets, would be likely to have a correspondent effect on the conduct of other nations, who would not be inclined to see themselves altogether supplanted in our trade.

A further resource for influencing the conduct of European nations towards us, in this respect would arise from the establishment of a federal navy. There can be no doubt, that the continuance of the union, under an efficient government, would put it in our power, at a period not very distant, to create a navy, which, if it could not vie with those of the great maritime powers, would at least be of respectable weight if thrown into the scale of either of two contending parties. This would be more particularly the case in relation to operations in the West-Indies. A few ships of the line sent opportunely to the reinforcement of either side, would often be sufficient to decide the fate of a campaign, on the event of which interests of the greatest magnitude were suspended. Our position is in this respect a very commanding one. And if to this consideration we add that of the usefulness of supplies

Supplies from this country, in the prosecution of military operations in the West-Indies, it will readily be perceived, that a situation so favourable would enable us to bargain with great advantage for commercial privileges. A price would be set not only upon our friendship, but upon our neutrality. By a steady adherence to the union we may hope ere long to become the arbiter of Europe in America; and to be able to incline the balance of European competitions in this part of the world as our interest may dictate.

But in the reverse of this eligible situation we shall discover, that the rivalships of the parts would make them checks upon each other, and would frustrate all the tempting advantages, which nature has kindly placed within our reach. In a state so insignificant, our commerce would be a prey to the wanton intermeddlings of all nations at war with each other; who, having nothing to fear from us, would with little scruple or remorse supply their wants by depredations on our property, as often as it fell in their way. The rights of neutrality will only be respected, when they are defended by an adequate power. A nation, despicable by its weakness, forfeits even the privilege of being neutral.

Under a vigorous national government, the natural strength and resources of the country, directed to a common interest, would baffle all the combinations of European jealousy to restrain our growth. This situation would even take away the motive to such combinations, by inducing an impracticability of success. An active commerce, an extensive navigation, a flourishing marine would then be the inevitable offspring of moral and physical necessity. We might defy the little arts of little politicians to controul, or vary, the irresistible and unchangeable course of nature.

But in a state of disunion these combinations might exist, and might operate with success. It would be

in the power of the maritime nations, availing themselves of our universal impotence, to prescribe the conditions of our political existence; and as they have a common interest in being our carriers, and still more in preventing our being theirs, they would in all probability combine to embarrass our navigation in such a manner, as would in effect destroy it, and confine us to a PASSIVE COMMERCE. We should thus be compelled to content ourselves with the first price of our commodities, and to see the profits of our trade snatched from us to enrich our enemies and persecutors. That unequalled spirit of enterprise, which signalises the genius of the American merchants and navigators, and which is in itself an inexhaustible mine of national wealth, would be stifled and lost, and poverty and disgrace would overspread a country which with wisdom might make herself the admiration and envy of the world.

There are rights of great moment to the trade of America, which are rights of the union—I allude to the fisheries, to the navigation of the Lakes and to that of the Mississippi. The dissolution of the confederacy would give room for delicate questions, concerning the future existence of these rights; which the interest of more powerful partners would hardly fail to solve to our disadvantage. The disposition of Spain with regard to the Mississippi needs no comment. France and Britain are concerned with us in the fisheries; and view them as of the utmost moment to their navigation. They, of course, would hardly remain long indifferent to that decided mastery of which experience has shown us to be possessed in this valuable branch of traffic; and by which we are able to undersell those nations in their own markets. What more natural, than that they should be disposed to exclude, from the lists, such dangerous competitors?

This branch of trade ought not to be considered as a partial benefit. All the navigating states may in different degrees advantageously participate in it, and

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under circumstances of a greater extension of mercantile capital would not be unlikely to do it. As a nursery of seamen it now is, or when time shall have more nearly assimilated the principles of navigation in the several states, will become an universal resource. To the establishment of a navy it must be indispensable.

To this great national object, a NAVY, union will contribute in various ways. Every institution will grow and flourish in proportion to the quantity and extent of the means concentrated towards its formation and support. A navy of the United States, as it would embrace the resources of all, is an object far less remote than a navy of any single state, or partial confederacy, which would only embrace the resources of a part. It happens indeed that different portions of confederated America possess each some peculiar advantage for this essential establishment. The more Southern states furnish in greater abundance certain kinds of naval stores—tar, pitch and turpentine. Their wood for the construction of ships is also of a more solid and lasting texture. The difference in the duration of the ships of which the navy might be composed, if chiefly constructed of Southern wood would be of signal importance either in the view of naval strength or of national economy. Some of the Southern and of the middle states yield a greater plenty of iron and of better quality. Seamen must chiefly be drawn from the Northern hive. The necessity of naval protection to external or maritime commerce, and the conduciveness of that species of commerce to the prosperity of a navy, are points too manifest to require a particular elucidation. They, by a kind of reaction, mutually beneficial, promote each other.

An unrestrained intercourse between the states themselves will advance the trade of each, by an interchange of their respective productions, not only for the supply of reciprocal wants at home, but for exportation to foreign markets. The veins of commerce in every
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part will be replenished, and will acquire additional motion and vigour from a free circulation of the commodities of every part. Commercial enterprise will have much greater scope, from the diversity in the productions of different states. When the staple of one fails, from a bad harvest or unproductive crop, it can call to its aid the staple of another. The variety not less than the value of products for exportation, contributes to the activity of foreign commerce. It can be conducted upon much better terms, with a large number of materials of a given value, than with a small number of materials of the same value; arising from the competitions of trade and from the fluctuations of markets. Particular articles may be in great demand at certain periods, and unsaleable at others; but if there be a variety of articles, it can scarcely happen that they should all be at one time in the latter predicament; and on this account the operations of the merchant would be less liable to any considerable obstruction or stagnation. The speculative trader will at once perceive the force of these observations; and will acknowledge, that the aggregate ballance of the commerce of the United States, would bid fair to be much more favourable than that of the Thirteen States, without union, or with partial unions.

It may perhaps be replied to this, that whether the states are united, or disunited, there would still be an intimate intercourse between them which would answer the same ends: But this intercourse would be fettered, interrupted and narrowed by a multiplicity of causes; which in the course of these papers have been amply detailed. An unity of commercial, as well as political interests, can only result from an unity of government.

There are other points of view, in which this subject might be placed, of a striking and animating kind. But they would lead us too far into the regions of futurity, and would involve topics not proper for a newspaper discussion. I shall briefly observe, that

our situation invites, and our interest prompts us, to
 him at an ascendant in the system of American affairs.
 The world may politically, as well as geographically,
 be divided into four parts, each having a distinct set
 of interests. Unhappily for the other three, Europe
 by her arms and by her negotiations, by force and by
 fraud, has, in different degrees, extended her dominion
 over them all. Africa, Asia, and America, have suc-
 cessively felt her domination. The superiority she has
 long maintained, has tempted her to plume herself as
 the mistress of the world, and to consider the rest of
 mankind as created for her benefit. Men, admired
 as profound philosophers, have, in direct terms, attri-
 buted to her inhabitants a physical superiority; and
 have gravely asserted that all animals, and with them
 the human species, degenerate in America—that every
 dog cease to bark after having breathed a while
 in our atmosphere*. Facts have too long supported
 these arrogant pretensions of the European: It belongs
 to us to vindicate the honor of the human race, and
 to teach that assuming brother moderation. Union
 will enable us to do it. Disunion will add another
 victim to his triumphs. Let Americans disdain to
 be the instruments of European greatness! Let the
 thirteen States, bound together in a strict and
 indissoluble union, concur in erecting one great
 American system, superior to the controul of all
 trans-atlantic force or influence, and able to dictate
 the terms of the connection between the old and the
 new world!

PUBLIUS.

NUMBER

* Recherches philosophiques sur les Americains.

NUMBER XII.

The Utility of the Union in respect to Revenue

THE effects of union, upon the commercial prosperity of the states, have been sufficiently delineated. Its tendency to promote the interests of revenue will be the subject of our present enquiry.

The prosperity of commerce is now perceived and acknowledged, by all enlightened statesmen to be the most useful as well as the most productive source of national wealth; and has accordingly become a primary object of their political cares. By multiplying the means of gratification, by promoting the introduction and circulation of the precious metals, those darling objects of human avarice and enterprise, serves to vivify and invigorate all the channels of industry, and to make them flow with greater activity and copiousness. The assiduous merchant, the laborious husbandman, the active mechanic, and the industrious manufacturer, all orders of men look forward with eager expectation and growing alacrity to this pleasing reward of their toils. The often-agitated question between agriculture and commerce, has from indubitable experience received a decision, which has silenced the rivalships that once subsisted between them, and has proved, to the entire satisfaction of their friends, that their interests are intimately blended and interwoven. It has been found, in various countries, that in proportion as commerce has flourished land has risen in value. And how could it have happened otherwise? Could that which procures a freer vent for the products of the earth—which furnishes new incitements to the cultivators of land—which is the most powerful instrument in increasing the quantity of money in a state—could that, in fine, which is the faithful handmaid of labour and industry, in every shape, fail to augment the value of that article, which

the prolific parent of far the greatest part of the objects, upon which they are exerted? It is astonishing that so simple a truth should ever have had an adversary; and it is one, among a multitude of proofs, how apt a spirit of ill informed jealousy or of too great abstraction and refinement is to lead men astray from the plainest paths of reason and conviction.

The ability of a country to pay taxes must always be proportioned, in a great degree, to the quantity of money in circulation and to the celerity with which it circulates. Commerce, contributing to both these objects, must of necessity render the payment of taxes easier, and facilitate the requisite supplies to the treasury. The hereditary dominions of the emperor of Germany contain a great extent of fertile, cultivated and populous territory, a large proportion of which is situated in mild and luxuriant climates. In some parts of this territory are to be found, the best gold and silver mines in Europe. And yet, from the want of the fostering influence of commerce, that monarch can boast but slender revenues. He has several times been compelled to owe obligations to the pecuniary succours of other nations, for the preservation of his essential interests; and is unable, upon the strength of his own resources, to sustain a long or continued war.

But it is not in this aspect of the subject alone that reason will be seen to conduce to the purposes of revenue. There are other points of view, in which its influence will appear more immediate and decisive. It is evident from the state of the country, from the habits of the people, from the experience we have had on the point itself, that it is impracticable to raise any very considerable sums by direct taxation. Tax laws have in vain been multiplied—new methods to enforce the collection have in vain been tried—the public expectation has been uniformly disappointed, and the treasuries of the states have remained empty. The popular system of administration, inherent in the nature of popular government, coinciding with the real

real scarcity of money, incident to a languid and mutilated state of trade, has hitherto defeated every experiment for extensive collections, and has at length taught the different legislatures the folly of attempting them.

No person acquainted with what happens in other countries, will be surprised at this circumstance. In so opulent a nation as that of Britain, where direct taxes, from superior wealth, must be much more tolerable, and, from the vigor of the government, much more practicable, than in America, far the greater part of the national revenue is derived from taxes of the indirect kind; from imposts and from excises. Duties on imported articles form a large branch of this latter description.

In America, it is evident, that we must a long time, depend for the means of revenue, chiefly on such duties. In most parts of it, excises must be confined within a narrow compass. The genius of the people will ill-brook the inquisitive and peremptory spirit of excise laws. The pockets of the farmers on the other hand will reluctantly yield but scanty supplies in the unwelcome shape of impositions on their houses and lands—and personal property is too precarious and invisible a fund to be laid hold of in any other way, than by the imperceptible agency of taxes on consumption.

If these remarks have any foundation, that state of things, which will best enable us to improve and extend so valuable a resource, must be the best adapted to our political welfare. And it cannot admit of serious doubt, that this state of things must rest on the basis of a general union. As far as this would be conducive to the interests of commerce, so far it must tend to the extension of the revenue to be drawn from that source. As far as it would contribute to rendering regulations for the collection of the duties more simple and efficacious, so far it must serve to answer the purposes of making the same rate of duties more productive.

productive, and of putting it into the power of the government to increase the rate, without prejudice to trade.

The relative situation of these states—the number of rivers with which they are intersected, and of bays that wash their shores—the facility of communication in every direction—the affinity of language and manners—the familiar habits of intercourse; all these are circumstances that would conspire to render an illicit trade between them a matter of little difficulty; and would insure frequent evasions of the commercial regulations of each other. The separate states, or confederacies, would be necessitated by mutual jealousy to avoid the temptations to that kind of trade by the slowness of their duties. The temper of our governments, for a long time to come, would not permit those rigorous precautions, by which the European nations guard the avenues into their respective countries, as well by land as by water, and which even there are found insufficient obstacles to the adventurous stratagems of avarice.

In France there is an army of patrols (as they are called) constantly employed to secure her fiscal regulations against the inroads of the dealers in contraband. Mr. Neckar computes the number of these patrols at upwards of twenty thousand. This proves the immense difficulty in preventing that species of traffic, where there is an inland communication, and shews in a strong light the disadvantages, with which the collection of duties in this country would be incumbered, if by disunion the states should be placed in a situation with respect to each other, resembling that of France with respect to her neighbours. The arbitrary and vexatious powers with which the patrols are necessarily armed would be intolérable in a free country.

If on the contrary there be but one government, pervading all the States, there will be as to the principal part of our commerce but one side to guard,

the ATLANTIC COAST. Vessels arriving directly from foreign countries, laden with valuable cargoes, would rarely choose to hazard themselves to the complicated and critical perils, which would attend attempts to unlade prior to their coming into port. They would have to dread both the dangers of the coast, and of detection as well after as before their arrival at the places of their final destination. An ordinary degree of vigilance would be competent to the prevention of any material infractions upon the rights of the revenue. A few armed vessels, judiciously stationed at the entrances of our ports, might at small expence be made useful sentinels of the laws. And the government having the same interest to provide against violations every where, the co-operation of its measures in each state would have a powerful tendency to render them effectual. Here also we should preserve by union an advantage which nature holds out to us, and which would be relinquished by separation. The United States lie at a great distance from Europe and at a considerable distance from all other places, with which they would have extensive connections of foreign trade. The passage from them to us in a few hours, or in a single night, as between the coasts of France and Britain and of other neighbouring nations would be impracticable. This is a prodigious security against a direct contraband with foreign countries; but a circuitous contraband to one state through the medium of another, would be both easy and safe. The difference between a direct importation from abroad and an indirect importation, through the channel of a neighbouring state, in small parcels, according to time and opportunity, with the additional facilities of inland communication, must be palpable to every man of discernment.

It is, therefore, evident, that one national government would be able, at much less expence, to extend the duties on imports, beyond comparison further, than would be practicable to the states separately, or

to any partial confederacies: Hitherto I believe it may safely be asserted that these duties have not upon an average exceeded in any state three per cent. In France they are estimated at about fifteen per cent, and in Britain the proportion is still greater. There seems to be nothing to hinder their being increased in this country, to at least treble their present amount. The single article of ardent spirits, under federal regulation, might be made to furnish a considerable revenue. Upon a ratio to the importation into this state, the whole quantity imported into the United States may at a low computation be estimated at four millions of gallons; which at a shilling per gallon would produce two hundred thousand pounds. That article would well bear this rate of duty; and if it should tend to diminish the consumption of it, such an effect would be equally favorable to the agriculture, to the economy, to the morals and to the health of the society. There is perhaps nothing so much a subject of national extravagance, as this very article.

What will be the consequence, if we are not able to avail ourselves of the resource in question in its full extent? A nation cannot long exist without revenue. Destitute of this essential support, it must resign its independence, and sink into the degraded condition of a province. This is an extremity to which no government will of choice accede. Revenue therefore must be had at all events. In this country, if the principal part be not drawn from commerce, it must fall with oppressive weight upon land. It has been already intimated that excises, in their true signification, are too little in unison with the feelings of the people, to admit of great use being made of that mode of taxation: nor indeed, in the states where almost the sole employment is agriculture, are the objects proper for excise sufficiently numerous, to permit very ample collections in that way. Personal state, (as has been before remarked) from the difficulty of tracing it, cannot be subjected to large contributions,

tributions, by any other means than by taxes on consumption. In populous cities, it may be enough the subject of conjecture, to occasion the oppression of individuals, without much aggregate benefit to the state; but beyond these circles it must in a great measure escape the eye and the hand of the tax gatherer. As the necessities of the state, nevertheless, must be satisfied in some mode or other, the defect of other resources must throw the principal weight of the public burthens on the possessors of land. And as on the other hand the wants of the government can never obtain an adequate supply, unless all the sources of revenue are open to its demands, the finances of the community, under such embarrassments, cannot be put into a situation consistent with its respectability, or its security. Thus we shall not even have the consolations of a full treasury to atone for the oppression of that valuable class of the citizens, who are employed in the cultivation of the soil. But public and private distress will keep pace with each other in gloomy concert; and unite in deploring the insatiation of those councils, which led to disunion.

PUBLIUS.

N U M B E R X I I I .

*The same Subject continued, with a View to
Economy.*

AS connected with the subject of revenue, we may with propriety consider that of economy. The money saved from one object may be usefully applied to another; and there will be so much the less to be drawn from the pockets of the people. If the states are united under one government, there will be but one national civil list to support; if they are divided into several confederacies, there will be as many dis-

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ferent national civil lists to be provided for; and each of them, as to the principal departments coextensive with that which would be necessary for a government of the whole. The entire separation of the states into thirteen unconnected sovereignties is a project too extravagant and too replete with danger to have many advocates. The ideas of men who speculate upon the dismemberment of the empire, seem generally turned towards three confederacies; one consisting of the four Northern, another of the four middle, and a third of the five Southern states. There is little probability that there would be a greater number. According to this distribution, each confederacy would comprise an extent of territory larger than that of the kingdom of Great-Britain. No well informed man will suppose that the affairs of such a confederacy can be properly regulated by a government, less comprehensive in its organs or institutions, than that which has been proposed by the convention. When the dimensions of a state attain to a certain magnitude, it requires the same energy of government, and the same forms of administration, which are requisite in one of much greater extent. This idea admits not of precise demonstration, because there is no rule by which we can measure the momentum of civil power, necessary to the government of any given number of individuals; but when we consider that the Island of Britain, nearly commensurate with each of the supposed confederacies, contains about eight millions of people, and when we reflect upon the degree of authority required to direct the passions of so large a society to the public good, we shall see no reason to doubt that the like portion of power would be sufficient to perform the same task in a society far more numerous. Civil power properly organised and exerted is capable of diffusing its force to a very great extent; and can in a manner reproduce itself in every part of a great empire by a judicious arrangement of subordinate institutions.

The supposition, that each confederacy into which the states would be likely to be divided, would require a government not less comprehensive, than the one proposed, will be strengthened by another supposition, more probable than that which presents us with three confederacies as the alternative to a general union. If we attend carefully to geographical and commercial considerations, in conjunction with the habits and prejudices of the different states, we shall be led to conclude, that in case of disunion they will most naturally league themselves under two governments. The four Eastern states, from all the causes that form the links of national sympathy and connection, may with certainty be expected to unite. New-York, situated as she is, would never be unwise enough to oppose a feeble and unsupported flank to the weight of that confederacy. There are obvious reasons, that would facilitate her accession to it. New-Jersey is too small a state to think of being a frontier, in opposition to this still more powerful combination; nor do there appear to be any obstacles to her admission into it. Even Pennsylvania would have strong inducements to join the Northern league. An active foreign commerce on the basis of her own navigation is her true policy, and coincides with the opinions and dispositions of her citizens. The more Southern states, from various circumstances, may not think themselves much interested in the encouragement of navigation. They may prefer a system, which would give unlimited scope to all nations, to be the carriers as well as the purchasers of their commodities. Pennsylvania may not choose to confound her interests in a connection so adverse to her policy. As she must at all events be a frontier, she may deem it most consistent with her safety to have her exposed side turned towards the weaker power of the Southern, rather than towards the stronger power of the Northern confederacy. This would give her the fairest chance to avoid being the FLANDERS of America, Whatever may be the determination

determination of Pennsylvania, if the Northern confederacy includes New-Jersey, there is no likelihood of more than one confederacy to the South of that state.

Nothing can be more evident than that the Thirteen States will be able to support a national government, better than one half, or one third, or any number less than the whole. This reflection must have great weight in obviating that objection to the proposed plan, which is founded on the principle of expence; an objection however, which, when we come to take a nearer view of it, will appear in every light to stand on mistaken ground.

If in addition to the consideration of a plurality of civil lists, we take into view the number of persons who must necessarily be employed to guard the inland communication, between the different confederacies, against illicit trade, and who in time will infallibly spring up out of the necessities of revenue; and if we also take into view the military establishments, which it has been shewn would unavoidably result from the jealousies and conflicts of the several nations, into which the states would be divided, we shall clearly discover that a separation would be not less injurious to the economy than to the tranquility, commerce, revenue and liberty of every part.

PUBLIUS.

N U M B E R X I V .

An Objection drawn from the Extent of Country answered.

WE have seen the necessity of the union as our bulwark against foreign danger, as the conservator of peace among ourselves, as the guardian of our commerce and other common interests, as the only substitute for those military establishments which have

have subverted the liberties of the old world, and as the proper antidote for the diseases of faction, which have proved fatal to other popular governments, and of which alarming symptoms have been betrayed by our own. All that remains, within this branch of our enquiries, is to take notice of an objection, that may be drawn from the great extent of country which the union embraces. A few observations on this subject will be the more proper, as it is perceived that the adversaries of the new constitution are availing themselves of a prevailing prejudice, with regard to the practicable sphere of republican administration, in order to supply by imaginary difficulties, the want of those solid objections, which they endeavour in vain to find.

The error which limits republican government to a narrow district, has been unfolded and refuted in preceding papers. I remark here only, that it seems to owe its rise and prevalence chiefly to the confounding of a republic with a democracy: And applying to the former reasonings drawn from the nature of the latter. The true distinction between these forms was also adverted to on a former occasion. It is, that in a democracy, the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. A democracy consequently must be confined to a small spot. A republic may be extended over a large region.

To this accidental source of the error may be added the artifice of some celebrated authors, whose writings have had a great share in forming the modern standard of political opinions. Being subjects either of an absolute, or limited monarchy, they have endeavoured to heighten the advantages or palliate the evils of those forms; by placing in comparison with them the vices and defects of the republican, and by citing as specimens of the latter, the turbulent democracies of ancient Greece, and modern Italy. Under the confusion of names, it has been an easy task to transfer

to a republic, observations applicable to a democracy only, and among others, the observation that it can never be established but among a small number of people, living within a small compass of territory.

Such a fallacy may have been the less perceived, as most of the popular governments of antiquity were of the democratic species ; and even in modern Europe, to which we owe the great principle of representation, no example is seen of a government wholly popular, and founded at the same time wholly on that principle. If Europe has the merit of discovering this great mechanical power in government, by the simple agency of which, the will of the largest political body may be concentrated, and its force directed to any object, which the public good requires : America can claim the merit of making the discovery the basis of unmixed and extensive republics. It is only to be lamented, that any of her citizens should wish to deprive her of the additional merit of displaying its full efficacy in the establishment of the comprehensive system now under her consideration.

As the natural limit of a democracy is that distance from the central point, which will just permit the most remote citizens to assemble as often as their public functions demand ; and will include no greater number than can join in those functions ; so the natural limit of a republic is that distance from the centre, which will barely allow the representatives of the people to meet as often as may be necessary for the administration of public affairs. Can it be said, that the limits of the United States exceed this distance ? It will not be said by those who recollect that the Atlantic coast is the longest side of the union ; that during the term of thirteen years, the representatives of the states have been almost continually assembled ; and that the members from the most distant states are not chargeable with greater intermissions of attendance, than those from the states in the neighbourhood of Congress.

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That we may form a juster estimate with respect to this interesting subject, let us resort to the actual dimensions of the union. The limits, as fixed by the treaty of peace are on the East the Atlantic, on the South the latitude of thirty one degrees, on the West the Mississippi, and on the North an irregular line running in some instances beyond the forty-fifth degree, in others falling as low as the forty-second. The Southern shore of lake Erie lies below that latitude. Computing the distance between the thirty-first and forty-fifth degrees, it amounts to nine hundred and seventy three common miles; computing it from thirty one to forty two degrees to seven hundred, sixty four miles and an half. Taking the mean for the distance, the amount will be eight hundred, sixty eight miles and three fourths. The mean distance from the Atlantic to the Mississippi, does not probably exceed seven hundred and fifty miles. On a comparison of this extent, with that of several countries in Europe, the practicability of rendering our system commensurate to it, appears to be demonstrable. It is not a great deal larger than Germany, where a diet, representing the whole empire is continually assembled; or than Poland before the late dismemberment, where another national diet was the depositary of the supreme power. Passing by France and Spain, we find that in Great Britain, inferior as it may be in size, the representatives of the Northern extremity of the island have as far to travel to the national council, as will be required of those of the most remote parts of the union.

Favourable as this view of the subject may be, some observations remain which will place it in a light still more satisfactory.

In the first place it is to be remembered, that the general government is not to be charged with the whole power of making and administering laws. Its jurisdiction is limited to certain enumerated objects, which concern all the members of the republic, but which

which are not to be attained by the separate provisions of any. The subordinate governments which can attend their care to all those other objects, which can be separately provided for, will retain their due authority and activity. Were it proposed by the plan of the convention to abolish the governments of the particular states, its adversaries would have some ground for their objection, though it would not be difficult to show that if they were abolished, the general government would be compelled by the principle of self preservation, to reinstate them in their proper jurisdiction.

A second observation to be made is, that the immediate object of the federal constitution is to secure the union of the Thirteen primitive States, which we know to be practicable; and to add to them such other states, as may arise in their own bosoms, or in their neighbourhoods, which we cannot doubt to be equally practicable. The arrangements that may be necessary for those angles and fractions of our territory, which on our north-western frontier, must be left to those from further discoveries and experience will render no less equal to the task.

Let it be remarked in the third place, that the intercourse throughout the union will be daily facilitated by new improvements. Roads will every where be shortened, and kept in better order; accommodations for travellers will be multiplied and meliorated; interior navigation on our eastern side will be opened throughout, or nearly throughout the whole extent of the Thirteen States. The communication between the eastern and Atlantic districts, and between different parts of each, will be rendered more and more easy by the numerous canals with which the beneficence of nature has intersected our country, and which art finds no little difficult to connect and complete.

A fourth and still more important consideration is, that as almost every state will on one side or other be on a frontier, and will thus find in a regard to its safety, an

an inducement to make some sacrifices for the sake of the general protection; so the states which lie at the greatest distance from the heart of the union; and which of course may partake least of the ordinary circulation of its benefits, will be at the same time immediately contiguous to foreign nations, and will consequently stand on particular occasions, in greater need of its strength and resources. It may be inconvenient for Georgia or the states forming our Western or North-Eastern borders, to send their representatives to the seat of government, but they would find it more so to struggle alone against an invading enemy, or even to support alone the whole expence of those precautions, which may be dictated by the neighbourhood of continual danger. If they should derive less benefit therefore from the union in some respects, than the less distant states, they will derive greater benefit from it in other respects, and thus the proper equilibrium will be maintained throughout.

I submit to you my fellow citizens, these considerations, in full confidence that the good sense which has so often marked your decisions, will allow them their due weight and effect; and that you will never suffer difficulties, however formidable in appearance or however fashionable the error on which they may be founded, to drive you into the gloomy and perilous scenes into which the advocates for disunion would conduct you. Harken not to the unnatural voice which tells you that the people of America, knit together as they are by so many chords of affection, can no longer live together as members of the same family; can no longer continue the mutual guardians of their mutual happiness; can no longer be fellow citizens of one great respectable and flourishing empire. Harken not to the voice which petulantly tells you that the form of government recommended for your adoption is a novelty in the political world that it has never yet had a place in the theories of the wildest projectors; that it rashly attempts what

is impossible to accomplish. No my countrymen, shut your ears against this unhallowed language. Shut your hearts against the poison which it conveys; the kindred blood which flows in the veins of American citizens, the mingled blood which they have shed in defence of their sacred rights, consecrate their union, and excite horror at the idea of their becoming aliens, rivals, enemies. And if novelties are to be shunned, believe me the most alarming of all novelties, the most wild of all projects, the most rash of all attempts, is that of rending us in pieces, in order to preserve our liberties and promote our happiness. But why is the experiment of an extended republic to be rejected merely because it may comprise what is new? Is it not the glory of the people of America, that whilst they have paid a decent regard to the opinions of former times and other nations, they have not suffered a blind veneration for antiquity, for custom, or for names, to overrule the suggestions of their own good sense, the knowledge of their own situation, and the lessons of their own experience? To this manly spirit, posterity will be indebted for the possession, and the world for the example of the numerous innovations displayed on the American theatre, in favour of private rights and public happiness. Had no important step been taken by the leaders of the revolution for which a precedent could not be discovered, no government established of which an exact model did not present itself, the people of the United States might, at this moment, have been numbered among the melancholy victims of misguided councils, must at best have been labouring under the weight of some of those forms which have crushed the liberties of the rest of mankind. Happily for America, happily we trust for the whole human race, they pursued a new and more noble course. They accomplished a revolution which has no parallel in the annals of human society: They reared the fabrics of governments which have no model on the face of the globe. They formed the

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design of a great confederacy, which it is incumbent on their successors to improve and perpetuate. If their works betray imperfections, we wonder at the fewness of them. If they erred most in the structure of the union, this was the work most difficult to be executed, this is the work which has been newly modelled by the act of your convention, and it is that act on which you are now to deliberate and to decide.

PUBLIUS.

N U M B E R X V.

Concerning the Defects of the present Confederation, in Relation to the Principle of Legislation for the States in their collective Capacities.

I N the course of the preceding papers, I have endeavoured, my fellow citizens, to place before you, in a clear and convincing light, the importance of union to your political safety and happiness. I have unfolded to you a complication of dangers to which you would be exposed should you permit that sacred knot, which binds the people of America together, to be severed or dissolved by ambition or by avarice, by jealousy or by misrepresentation. In the sequel of the inquiry, through which I propose to accompany you, the truths intended to be inculcated will receive further confirmation from facts and arguments hitherto unnoticed. If the road, over which you will still have to pass, should in some places appear to you tedious or irksome, you will recollect, that you are in quest of information on a subject the most momentous, which can engage the attention of a free people: That the field through which you have to travel is in itself spacious,

spacious, and that the difficulties of the journey have been unnecessarily increased by the mazes with which sophistry has beset the way. It will be my aim to remove the obstacles to your progress in as compendious a manner, as it can be done, without sacrificing utility to dispatch.

In pursuance of the plan, which I have laid down, for the discussion of the subject, the point next in order to be examined is the "insufficiency of the present confederation to the preservation of the union." It may perhaps be asked, what need is there of reasoning or proof to illustrate a position, which is neither controverted nor doubted; to which the understandings and feelings of all classes of men assent; and which in substance is admitted by the opponents as well as by the friends of the new constitution?—It must in truth be acknowledged that however these may differ in other respects, they in general appear to harmonize in this sentiment at least, that there are material imperfections in our national system, and that something is necessary to be done to rescue us from impending anarchy. The facts that support this opinion are no longer objects of speculation. They have forced themselves upon the sensibility of the people at large, and have at length extorted from those, whose mistaken policy has had the principal share in precipitating the extremity, at which we are arrived, a reluctant confession of the reality of many of those defects in the scheme of our federal government, which have been long pointed out and regretted by the intelligent friends of the union.

We may indeed with propriety be said to have reached almost the last stage of national humiliation. There is scarcely any thing that can wound the pride, or degrade the character of an independent nation, which we do not experience. Are there engagements to the performance of which we are held by every tie respectable among men? These are the subjects of constant and unblushing violation. Do we owe debts

to foreigners and to our own citizens contracted in a time of imminent peril, for the preservation of our political existence? These remain without any proper or satisfactory provision for their discharge. Have we valuable territories and important posts in the possession of a foreign power, which by express stipulations ought long since to have been surrendered? These are still retained, to the prejudice of our interests not less than of our rights. Are we in a condition to resent, or to repel the aggression? We have neither troops nor treasury nor government.* Are we even in a condition to remonstrate with dignity? The just imputations on our own faith, in respect to the same treaty, ought first to be removed. Are we entitled by nature and compact to a free participation in the navigation of the Mississippi? Spain excludes us from it. Is public credit an indispensable resource in time of public danger? We seem to have abandoned its cause as desperate and irretrievable. Is commerce of importance to national wealth? Ours is at the lowest point of declension. Is respectability in the eyes of foreign powers a safeguard against foreign encroachments? The imbecillity of our government even forbids them to treat with us: Our ambassadors abroad are the mere pageants of mimic sovereignty. Is a violent and unnatural decrease in the value of land a symptom of national distress? The price of improved land in most parts of the country is much lower than can be accounted for by the quantity of waste land at market, and can only be fully explained by that want of private and public confidence, which are so alarmingly prevalent among all ranks and which have a direct tendency to depreciate property of every kind. Is private credit the friend and patron of industry? That most useful kind which relates to borrowing and lending is reduced within the narrowest limits, and this still more from an opinion of insecurity than from a scarcity of money. To shorten an enumeration

* I mean for the union.

of particulars which can afford neither pleasure nor instruction it may in general be demanded, what indication is there of national disorder, poverty and insignificance that could befall a community so peculiarly blessed with natural advantages as we are, which does not form a part of the dark catalogue of our public misfortunes?

This is the melancholy situation to which we have been brought by those very maxims and councils, which would now deter us from adopting the proposed constitution; and which not content with having conducted us to the brink of a precipice, seem resolved to plunge us into the abyss, that awaits us below. Here, my countrymen, impelled by every motive that ought to influence an enlightened people, let us make a firm stand for our safety, our tranquility, our dignity, our reputation. Let us at last break the fatal charm which has too long seduced us from the paths of felicity and prosperity.

It is true, as has been before observed, that facts too stubborn to be resisted have produced a species of general assent to the abstract proposition that there exist material defects in our national system; but the usefulness of the concession, on the part of the old adversaries of federal measures, is destroyed by a strenuous opposition to a remedy, upon the only principles, that can give it a chance of success. While they admit that the government of the United States is destitute of energy, they contend against conferring upon it those powers which are requisite to supply that energy: They seem still to aim at things repugnant and irreconcilable—at an augmentation of federal authority without a diminution of state authority—at sovereignty in the union and complete independence in the members. They still, in fine, seem to cherish with blind devotion the political monster of an *imperium in imperio*. This renders a full display of the principal defects of the confederation necessary, in order to shew, that the evils we experience do not proceed

from minute or partial imperfections, but from fundamental errors in the structure of the building which cannot be amended otherwise than by an alteration in the first principles and main pillars of the fabric.

The great and radical vice in the construction of the existing confederation is in the principle of LEGISLATION for STATES OR GOVERNMENTS, in their CORPORATE OR COLLECTIVE CAPACITIES, and as contradistinguished from the INDIVIDUALS of whom they consist. Though this principle does not run through all the powers delegated to the union; yet it pervades and governs those, on which the efficacy of the rest depends. Except as to the rule of apportionment, the United States have an indefinite discretion to make requisitions for men and money; but they have no authority to raise either by regulations extending to the individual citizens of America. The consequence of this is, that though in theory their resolutions concerning those objects are laws, constitutionally binding on the members of the union, yet in practice they are mere recommendations, which the states observe or disregard at their option.

It is a singular instance of the capriciousness of the human mind, that after all the admonitions we have had from experience on this head, there should still be found men, who object to the new constitution for deviating from a principle which has been found the bane of the old; and which is in itself evidently incompatible with the idea of GOVERNMENT; a principle in short which, if it is to be executed at all, must substitute the violent and sanguinary agency of the sword to the mild influence of the magistracy.

There is nothing absurd or impracticable in the idea of a league or alliance between independent nations, for certain defined purposes precisely stated in a treaty; regulating all the details of time, place, circumstance and quantity; leaving nothing to future discretion; and depending for its execution on the good faith of the parties. Compacts of this kind

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exist among all civilized nations subject to the usual vicissitudes of peace and war, of observance and non-observance, as the interests or passions of the contracting powers dictate. In the early part of the present century, there was an epidemical rage in Europe for this species of compacts; from which the politicians of the times fondly hoped for benefits which were never realized. With a view to establishing the equilibrium of power and the peace of that part of the world, all the resources of negotiation were exhausted, and triple and quadruple alliances were formed; but they were scarcely formed before they were broken, giving an instructive but afflicting lesson to mankind, how little dependence is to be placed on treaties which have no other sanction than the obligations of good faith; and which oppose general considerations of peace and justice to the impulse of any immediate interest or passion.

If the particular states in this country are disposed to stand in a similar relation to each other, and to drop the project of a general DISCRETIONARY SUPERINTENDENCE, the scheme would indeed be pernicious, and would entail upon us all the mischiefs which have been enumerated under the first head; but it would have the merit of being at least consistent and practicable. Abandoning all views towards a confederate government, this would bring us to a simple alliance offensive and defensive; and would place us in a situation to be alternately friends and enemies of each other, as our mutual jealousies and rivalships nourished by the intrigues of foreign nations should prescribe to us.

But if we are unwilling to be placed in this perilous situation; if we will still adhere to the design of a national government, or which is the same thing of a superintending power under the direction of a common council, we must resolve to incorporate into our plan those ingredients which may be considered as forming the characteristic difference between a league and

and a government; we must extend the authority of the union to the persons of the citizens—the only proper objects of government.

Government implies the power of making laws. It is essential to the idea of a law, that it be attended with a sanction; or, in other words, a penalty or punishment for disobedience. If there be no penalty annexed to disobedience, the resolutions or commands which pretend to be laws, will in fact amount to nothing more than advice or recommendation. This penalty, whatever it may be, can only be inflicted in two ways; by the agency of the courts and ministers of justice, or by military force; by the COERTION of the magistracy, or by the COERTION of arms. The first kind can evidently apply only to men—the last kind must of necessity be employed against bodies politic, or communities or states. It is evident, that there is no process of a court by which their observance of the laws can in the last resort be enforced. Sentences may be denounced against them for violations of their duty; but these sentences can only be carried into execution by the sword. In an association where the general authority is confined to the collective bodies of the communities that compose it, every breach of the laws must involve a state of war, and military execution must become the only instrument of civil obedience. Such a state of things can certainly not deserve the name of government, nor would any prudent man choose to commit his happiness to it.

There was a time when we were told that breaches, by the states, of the regulations of the federal authority were not to be expected—that a sense of common interest would preside over the conduct of the respective members, and would beget a full compliance with all the constitutional requisitions of the union. This language at the present day would appear as wild as a great part of what we now hear from the same quarter will be thought, when we shall have received

received further lessons from that best oracle of wisdom, experience. It at all times betrayed an ignorance of the true springs by which human conduct is actuated, and belied the original inducements to the establishment of civil power. Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice, without constraint. Has it been found that bodies of men act with more rectitude or greater disinterestedness than individuals? The contrary of this has been inferred by all accurate observers of the conduct of mankind; and the inference is founded upon obvious reasons. Regard to reputation has a less active influence, when the infamy of a bad action is to be divided among a number, than when it is to fall singly upon one. A spirit of faction which is apt to mingle its poison in the deliberations of all bodies of men, will often hurry the persons of whom they are composed into improprieties and excesses, for which they would blush in a private capacity.

In addition to all this, there is in the nature of sovereign power an impatience of controul, which disposes those who are invested with the exercise of it, to look with an evil eye upon all external attempts to restrain or direct its operations. From this spirit it happens, that in every political association which is formed upon the principle of uniting in a common interest a number of lesser sovereignties, there will be found a kind of excentric tendency in the subordinate or inferior orbs, by the operation of which there will be a perpetual effort in each to fly off from the common centre. This tendency is not difficult to be accounted for. It has its origin in the love of power. Power controuled or abridged is almost always the rival and enemy of that power by which it is controuled or abridged. This simple proposition will teach us how little reason there is to expect, that the persons, entrusted with the administration of the affairs of the particular members of a confederacy, will at all times

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be ready, with perfect good humour and an unbiassed regard to the public weal, to execute the resolutions or decrees of the general authority. The reverse of this results from the constitution of man.

If therefore the measures of the confederacy cannot be executed, without the intervention of the particular administrations, there will be little prospect of their being executed at all. The rulers of the respective members, whether they have a constitutional right to do it or not, will undertake to judge of the propriety of the measures themselves. They will consider the conformity of the thing proposed or required to their immediate interests or aims; the momentary conveniences or inconveniences that would attend its adoption. All this will be done; and in a spirit of interested and suspicious scrutiny, without that knowledge of national circumstances and reasons of state, which is essential to a right judgment, and with that strong predilection in favor of local objects, which can hardly fail to mislead the decision. The same process must be repeated in every member of which the body is constituted; and the execution of the plans, framed by the councils of the whole, will always fluctuate on the discretion of the ill-informed and prejudiced opinion of every part. Those who have been conversant in the proceedings of popular assemblies; who have seen how difficult it often is, when there is no exterior pressure of circumstances, to bring them to harmonious resolutions on important points, will readily conceive how impossible it must be to induce a number of such assemblies, deliberating at a distance from each other, at different times, and under different impressions, long to cooperate in the same views and pursuits.

In our case, the concurrence of thirteen distinct sovereign wills is requisite under the confederation to the complete execution of every important measure, that proceeds from the union. It has happened as was to have been foreseen. The measures

ures of the union have not been executed ; and the delinquencies of the states have step by step matured themselves to an extreme ; which has at length arrested all the wheels of the national government, and brought them to an awful stand. Congress at this time scarcely possess the means of keeping up the forms of administration ; till the states can have time to agree upon a more substantial substitute for the present shadow of a federal government. Things did not come to this desperate extremity at once. The causes which have been specified produced at first only unequal and disproportionate degrees of compliance with the requisitions of the union. The greater deficiencies of some states furnished the pretext of example and the temptation of interest to the complying, or to the least delinquent states. Why should we do more in proportion than those who are embarked with us in the same political voyage ? Why should we consent to bear more than our proper share of the common burthen ? These were suggestions which human selfishness could not withstand, and which even speculative men, who looked forward to remote consequences, could not without hesitation combat. Each state yielding to the persuasive voice of immediate interest or convenience has successively withdrawn its support, till the frail and tottering edifice seems ready to fall upon our heads and to crush us beneath its ruins.

PUBLIUS.

NUMBER XVI.

The same Subject continued, in Relation to the same Principles.

THE tendency of the principle of legislation for states or communities, in their political capacities, as it has been exemplified by the experiment we have made of it, is equally attested by the events which

which have befallen all other governments of the confederate kind, of which we have any account, in exact proportion to its prevalence in those systems. The confirmations of this fact will be worthy of a distinct and particular examination. I shall content myself with barely observing here, that of all the confederacies of antiquity which history has handed down to us, the Lycian and Achæan leagues, as far as they remain vestiges of them, appear to have been most free from the fetters of that mistaken principle, and were accordingly those which have best deserved, and have most liberally received the applauding suffrages of political writers.

This exceptionable principle may as truly as emphatically be stiled the parent of anarchy: It has been seen that delinquencies in the members of the union are in natural and necessary offspring; and that whenever they happen, the only constitutional remedy is force, and the immediate effect of the use of it, civil war.

It remains to enquire how far so odious an engine of government, in its application to us, would ever be capable of answering its end. If there should not be a large army, constantly at the disposal of the national government, it would either not be able to employ force at all, or when this could be done, it would amount to a war between different parts of the confederacy, concerning the infractions of a league, in which the strongest combination would be most likely to prevail, whether it consisted of those who supported, or of those who resisted the general authority. It would rarely happen that the delinquency to be redressed would be confined to a single member, and if there were more than one, who had neglected their duty, similarity of situation would induce them to unite for common defence. Independent of this motive of sympathy, if a large and influential state should happen to be the aggressing member, it would commonly have weight enough with its neighbours to win over some of them as associates to its cause.

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precious arguments of danger to the general liberty could easily be contrived; plausible excuses for the deficiencies of the party, could, without difficulty be invented, to alarm the apprehensions, inflame the passions, and conciliate the good will even of those states which were not chargeable with any violation, or omission of duty. This would be the more likely to take place, as the delinquencies of the larger members might be expected sometimes to proceed from an ambitious premeditation in their rulers, with a view to getting rid of all external controul upon their designs of personal aggrandizement; the better to effect which, it is presumable they would tamper beforehand with leading individuals in the adjacent states. If associates could not be found at home, recourse would be had to the aid of foreign powers, who would seldom be disinclined to encouraging the dissensions of a confederacy, from the firm union of which they had so much to fear. When the sword is once drawn, the passions of men observe no bounds of moderation. The suggestions of wounded pride, the instigations of irritated resentment, would be apt to carry the states, against which the arms of the union were exerted, to any extremes necessary to avenge the affront, or to avoid the disgrace of submission. The first war of this kind would probably terminate in a dissolution of the union.

This may be considered as the violent death of the confederacy. Its more natural death is what we now seem to be on the point of experiencing, if the federal system be not speedily renovated in a more substantial form. It is not probable, considering the genius of this country, that the complying states would often be inclined to support the authority of the union by engaging in a war against the non-complying states. They would always be more ready to pursue the milder course of putting themselves upon an equal footing with the delinquent members, by an imitation of their example. And the guilt of all would thus

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become

become the security of all. Our past experience has exhibited the operation of this spirit in its full light. There would in fact be an insuperable difficulty in ascertaining when force could with propriety be employed. In the article of pecuniary contribution, which would be the most usual source of delinquency, it would often be impossible to decide whether it had proceeded from disinclination, or inability. The pretence of the latter would always be at hand. And the case must be very flagrant in which its fallacy could be detected with sufficient certainty to justify the harsh expedient of compulsion. It is easy to see that this problem alone, as often as it should occur, would open a wide field to the majority that happened to prevail in the national council, for the exercise of factious views, of partiality and of oppression.

It seems to require no pains to prove that the state ought not to prefer a national constitution, which could only be kept in motion by the instrumentality of a large army, continually on foot to execute the ordinary requisitions or decrees of the government. And yet this is the plain alternative involved by those who wish to deny it the power of extending its operations to individuals. Such a scheme, if practicable at all, would instantly degenerate into a military despotism; but it will be found in every light impracticable. The resources of the union would not be equal to the maintenance of an army considerable enough to confine the larger states within the limits of their duty; nor would the means ever be furnished of forming such an army in the first instance. Whoever considers the populousness and strength of several of these states singly at the present juncture, and looks forward to what they will become, even at the distance of half a century, will at once dismiss as idle and visionary any scheme, which aims at regulating their movements by laws, to operate upon them in their collective capacities, and to be executed by a coercion applicable to them in the same capacities. A project

of this kind is little less romantic than the monster-making spirit, attributed to the fabulous heroes and demi-gods of antiquity.

Even in those confederacies, which have been composed of members smaller than many of our counties, the principle of legislation for sovereign states, supported by military coercion, has never been found effectual. It has rarely been attempted to be employed, but against the weaker members; and in most instances attempts to coerce the refractory and disobedient, have been the signals of bloody wars; in which one half of the confederacy has displayed its manners against the other half.

The result of these observations to an intelligent mind must be clearly this, that if it be possible at any rate to construct a federal government capable of regulating the common concerns and preserving the general tranquillity, it must be founded, as to the objects committed to its care, upon the reverse of the principle contended for by the opponents of the proposed constitution. It must carry its agency to the persons of the citizens. It must stand in need of no intermediate legislations; but must itself be empowered to employ the arm of the ordinary magistrate to execute its own resolutions. The majesty of the national authority must be manifested through the medium of the courts of justice. The government of the union, like that of each state, must be able to address itself immediately to the hopes and fears of individuals; and to attract to its support, those passions, which have the strongest influence upon the human heart. It must in short, possess all the means and have a right to resort to all the methods of executing the powers, with which it is entrusted, that are possessed and exercised by the governments of the particular states.

To this reasoning it may perhaps be objected, that if any state should be disaffected to the authority of the union, it could at any time obstruct the execution

of its laws, and bring the matter to the same issue of force, with the necessity of which the opposite scheme is reproached.

The plausibility of this objection will vanish the moment we advert to the essential difference between a mere NON COMPLIANCE and a DIRECT and ACTIVE RESISTANCE. If the interposition of the state-legislatures be necessary to give effect to a measure of the union, they have only NOT TO ACT, OR TO ACT EVASIVELY, and the measure is defeated. This neglect of duty may be disguised under affected but unsubstantial provisions, so as not to appear, and of course not to excite any alarm in the people for the safety of the constitution. The state-leaders may even make a merit of their surreptitious invasions of it, on the ground of some temporary convenience, exemption or advantage.

But if the execution of the laws of the national government, should not require the intervention of the state-legislatures; if they were to pass into immediate operation upon the citizens themselves, the particular governments could not interrupt their progress without an open and violent exertion of an unconstitutional power. No omissions, nor evasions would answer the end. They would be obliged to act, and in such a manner, as would leave no doubt that they had encroached on the national rights. An experiment of this nature would always be hazardous in the face of a constitution in any degree competent to its own defence, and of a people enlightened enough to distinguish between a legal exercise and an illegal usurpation of authority. The success of it would require not merely a factious majority in the legislature but the concurrence of the courts of justice, and of the body of the people. If the judges were not embarked in a conspiracy with the legislature, they would pronounce the resolutions of such a majority to be contrary to the supreme law of the land, unconstitutional and void. If the people were not tainted with the

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spirit of their state representatives, they, as the natural guardians of the constitution, would throw their weight into the national scale, and give it a decided preponderancy in the contest. Attempts of this kind would not often be made with levity or rashness; because they could seldom be made without danger to the authors; unless in cases of a tyrannical exercise of the federal authority.

If opposition to the national government should arise from the disorderly conduct of refractory, or seditious individuals, it could be overcome by the same means which are daily employed against the same evil, under the state governments. The magistracy, being equally the ministers of the law of the land, from whatever source it might emanate, would doubtless be as ready to guard the national as the local regulations from the inroads of private licentiousness. As to those partial commotions and insurrections which sometimes disquiet society, from the intrigues of an inconsiderable faction, or from sudden or occasional ill humours that do not infect the great body of the community, the general government could command more extensive resources for the suppression of disturbances of that kind, than would be in the power of any single member. And as to those mortal feuds, which in certain conjunctures spread a conflagration through a whole nation, or through a very large proportion of it, proceeding either from weighty causes of discontent given by the government, or from the contagion of some violent popular paroxysm, they do not fall within any ordinary rules of calculation. When they happen, they commonly amount to revolutions and dismemberments of empire. No form of government can always either avoid or controul them. It is in vain to hope to guard against events too mighty for human foresight or precaution, and it would be idle to object to a government because it could not perform impossibilities.

PUBLIUS.

NUMBER XVII.

*The Subject continued, and illustrated by
Examples to show the Tendency of Federal
Governments, rather to Anarchy among the
Members than Tyranny in the Head.*

AN objection of a nature different from that which has been stated and answered in my last address, may perhaps be likewise urged against the principle of legislation for the individual citizens of America. It may be said, that it would tend to render the government of the union too powerful, and to enable it to absorb in itself those residuary authorities, which it might be judged proper to leave with the states for local purposes. Allowing the utmost latitude to the love of power, which any reasonable man can require, I confess I am at a loss to discover what temptation the persons entrusted with the administration of the general government could ever feel to divest the states of the authorities of that description. The regulation of the mere domestic police of a state appears to me to hold out slender allurements to ambition. Commerce, finance, negotiation and war seem to comprehend all the objects, which have charms for minds governed by that passion; and all the powers necessary to these objects ought in the first instance to be lodged in the national depositary. The administration of private justice between the citizens of the same state, the supervision of agriculture and of other concerns of a similar nature, all those things in short which are proper to be provided for by local legislation, can never be desirable cares of a general jurisdiction. It is therefore improbable that there should exist a disposition in the federal councils to usurp the powers with which they are connected; because

because the attempt to exercise those powers would be as troublesome as it would be nugatory; and the possession of them, for that reason, would contribute nothing to the dignity, to the importance, or to the splendor of the national government.

But let it be admitted for argument sake, that mere wantonness and lust of domination would be sufficient to beget that disposition, still it may be safely affirmed, that the sense of the constituent body of the national representatives, or in other words of the people of the several States would controul the indulgence of so extravagant an appetite. It will always be far more easy for the state governments to encroach upon the national authorities, than for the national government to encroach upon the state authorities. The proof of this proposition turns upon the greater degree of influence, which the state governments, if they administer their affairs with uprightness and prudence, will generally possess over the people; a circumstance which at the same time teaches us, that there is an inherent and intrinsic weakness in all federal constitutions; and that too much pains cannot be taken in their organization, to give them all the force which is compatible with the principles of liberty.

The superiority of influence in favour of the particular governments would result partly from the diffusive construction of the national government; but chiefly from the nature of the objects to which the attention of the state administrations would be directed.

It is a known fact in human nature that its affections are commonly weak in proportion to the distance or diffusiveness of the object. Upon the same principle that a man is more attached to his family than to his neighbourhood, to his neighbourhood than to the community at large, the people of each state would be apt to feel a stronger bias towards their local governments than towards the government of the union; unless the force of that principle should be destroyed by a much better administration of the latter.

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This strong propensity of the human heart would find powerful auxiliaries in the objects of state regulation.

The variety of more minute interests, which will necessarily fall under the superintendence of the local administrations, and which will form so many rivulets of influence running through every part of the society, cannot be particularised without involving a detail too tedious and uninteresting to compensate for the instruction it might afford.

There is one transcendent advantage belonging to the province of the state governments which alone suffices to place the matter in a clear and satisfactory light—I mean the ordinary administration of criminal and civil justice. This of all others is the most powerful, most universal and most attractive source of popular obedience and attachment. It is this, which—being the immediate and visible guardian of life and property—having its benefits and its terrors in constant activity before the public eye—regulating all those personal interests and familiar concerns to which the sensibility of individuals is more immediately awake—contributes more than any other circumstance to impressing upon the minds of the people affection, esteem and reverence towards the government. This great cement of society which will diffuse itself almost wholly through the channels of the particular governments, independent of all other causes of influence, would ensure them so decided an empire over their respective citizens, as to render them at all times a complete counterpoise and not unfrequently dangerous rivals to the power of the union.

The operations of the national government on the other hand, falling less immediately under the observation of the mass of the citizens, the benefits derived from it will chiefly be perceived and attended to by speculative men. Relating to more general interests they will be less apt to come home to the feelings of the people; and, in proportion, less likely to inspire a habitual

a habitual sense of obligation and an active sentiment of attachment.

The reasoning on this head has been abundantly exemplified by the experience of all federal constitutions, with which we are acquainted, and of all others, which have borne the least analogy to them.

Though the ancient feudal systems were not strictly speaking confederacies, yet they partook of the nature of that species of association. There was a common head, chieftain, or sovereign, whose authority extended over the whole nation; and a number of subordinate vassals, or feudatories, who had large portions of land allotted to them and numerous trains of inferior vassals or retainers, who occupied and cultivated that land upon the tenure of fealty or obedience to the persons of whom they held it. Each principal vassal was a kind of sovereign within his particular demesnes. The consequences of this situation were a continual opposition to the authority of the sovereign, and frequent wars between the great barons, or chief feudatories themselves. The power of the head of the nation was commonly too weak either to preserve the public peace or to protect the people against the oppressions of their immediate lords. This period of European affairs is emphatically styled by historians the times of feudal anarchy.

When the sovereign happened to be a man of vigorous and warlike temper and of superior abilities, he would acquire a personal weight and influence, which answered for the time the purposes of a more regular authority. But in general the power of the barons triumphed over that of the prince; and in many instances his dominion was entirely thrown off, and the great fiefs were erected into independent principalities or states. In those instances in which the monarch finally prevailed over his vassals, his success was chiefly owing to the tyranny of those vassals over their dependents. The barons, or nobles were equally the enemies of the sovereign and the oppressors of

of the common people were dreaded and detested by both ; till mutual danger and mutual interest effected an union between them fatal to the power of the aristocracy. Had the nobles, by a conduct of clemency and justice, preserved the fidelity and devotion of their retainers and followers, the contests between them and the prince must almost always have ended in their favor and in the abridgement or subversion of the royal authority.

This is not an assertion founded merely in speculation or conjecture. Among other illustrations of its truth which might be cited, Scotland will furnish a cogent example. The spirit of clanship which was at an early day introduced into that kingdom, uniting the nobles and their dependents by ties equivalent to those of kindred, rendered the aristocracy a constant overmatch for the power of the monarch ; till the incorporation with England subdued its fierce and ungovernable spirit, and reduced it within those rules of subordination, which a more rational and a more energetic system of civil polity had previously established in the latter kingdom.

The separate governments in a confederacy may aptly be compared with the feudal baronies ; with this advantage in their favor, that from the reasons already explained, they will generally possess the confidence and good will of the people ; and with so important a support will be able effectually to oppose all incroachments of the national government. It will be well if they are not able to counteract its legitimate and necessary authority. The points of similitude consist in the rivalry of power, applicable to both, and in the CONCENTRATION of large portions of the strength of the community into particular DEPOSITORIES, in one case at the disposal of individuals, in the other case at the disposal of political bodies.

A concise review of the events that have attended confederate governments will further illustrate this important

important doctrine; an inattention to which has been the great source of our political mistakes, and has given our jealousy a direction to the wrong side. This review shall form the subject of some ensuing papers.

PUBLIUS.

N U M B E R XVIII.

The Subject continued, with farther Examples.

AMONG the confederacies of antiquity, the most considerable was that of the Grecian republics associated under the Amphyctionic council. From the best accounts transmitted of this celebrated institution, it bore a very instructive analogy to the present confederation of the American states.

The members retained the character of independent and sovereign states, and had equal votes in the federal council. This council had a general authority to propose and resolve whatever it judged necessary for the common welfare of Greece—to declare and carry on war—to decide in the last resort all controversies between the members—to fine the aggressing party—to employ the whole force of the confederacy against the disobedient—to admit new members. The Amphyctions were the guardians of religion, and of the immense riches belonging to the temple of Delphos, where they had the right of jurisdiction in controversies between the inhabitants and those who came to consult the oracle. As a further provision for the efficacy of the federal powers, they took an oath mutually to defend and protect the united cities, to punish the violators of this oath, and to inflict vengeance on sacrilegious despoilers of the temple.

In theory and upon paper, this apparatus of powers, seems amply sufficient for all general purposes. In several
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several material instances, they exceed the powers enumerated in the articles of confederation. The Amphictyons had in their hands the superstition of the times, one of the principal engines by which government was then maintained; they had a declared authority to use coercion against refractory cities, and were bound by oath to exert this authority on the necessary occasions.

Very different nevertheless was the experiment from the theory. The powers, like those of the present congress, were administered by deputies appointed wholly by the cities in their political capacities; and exercised over them in the same capacities. Hence the weakness, the disorders, and finally the destruction of the confederacy. The more powerful members, instead of being kept in awe and subordination, tyrannized successively over all the rest. Athens, as we learn from Demosthenes, was the arbiter of Greece seventy three years. The Lacedemonians next governed it twenty nine years; at a subsequent period, after the battle of Leuctra, the Thebans had their turn of domination.

It happened but too often, according to Plutarch, that the deputies of the strongest cities, awed and corrupted those of the weaker, and that judgment went in favor of the most powerful party.

Even in the midst of defensive and dangerous war with Persia and Macedon, the members never acted in concert, and were more or fewer of them, eternally the dupes, or the hirelings of the common enemy. The intervals of foreign war, were filled up by domestic vicissitudes, convulsions and carnage.

After the conclusion of the war with Xerxes, it appears that the Lacedemonians, required that a number of the cities should be turned out of the confederacy for the unfaithful part they had acted. The Athenians finding that the Lacedemonians would lose fewer partizans by such a measure than themselves, and would become masters of the public deliberations,

vigorously

rigorously opposed and defeated the attempt. This piece of history proves at once the inefficiency of the union; the ambition and jealousy of its most powerful members, and the dependent and degraded condition of the rest. The smaller members, though entitled by the theory of their system, to revolve in equal pride and majesty around the common center, had become in fact satellites of the orbs of primary magnitude.

Had the Greeks, says the Abbé Milot, been as wise as they were courageous, they would have been admonished by experience of the necessity of a closer union, and would have availed themselves of the peace which followed their success against the Persian arms, to establish such a reformation. Instead of this obvious policy, Athens and Sparta, inflated with the victories and the glory they had acquired, became first rivals, and then enemies; and did each other infinitely more mischief, than they had suffered from Xerxes. Their mutual jealousies, fears, hatreds and injuries, ended in the celebrated Peloponnesian war; which itself ended in the ruin and slavery of the Athenians, who had begun it.

As a weak government, when not at war, is ever agitated by internal dissensions; so these never fail to bring on fresh calamities from abroad. The Phocians having ploughed up some consecrated ground belonging to the temple of Apollo, the Amphyctionic council, according to the superstition of the age, imposed a fine on the sacrilegious offenders. The Phocians, being abetted by Athens and Sparta, refused to submit to the decree. The Thebans, with others of the cities, undertook to maintain the authority of the Amphyctions, and to avenge the violated god. The latter being the weaker party, invited the assistance of Philip of Macedon, who had secretly fostered the contest. Philip gladly seized the opportunity of executing the designs he had long planned against the liberties of Greece. By his intrigues and bribes he won over to

his interests the popular leaders of several cities; by their influence and votes, gained admission into the Amphyctionic council; and by his arts and his arms made himself master of the confederacy.

Such were the consequences of the fallacious principle, on which this interesting establishment was founded. Had Greece, says a judicious observer on her fate, been united by a stricter confederation, and persevered in her union, she would never have worn the chains of Macedon; and might have proved a barrier to the vast projects of Rome.

The Achæan league, as it is called, was another society of Grecian republics, which supplies us with valuable instruction.

The union here was far more intimate, and its organization much wiser, than in the preceding instance. It will accordingly appear, that though not exempt from a similar catastrophe, it by no means equally deserved it.

The cities composing this league, retained their municipal jurisdiction, appointed their own officers, and enjoyed a perfect equality. The senate in which they were represented, had the sole and exclusive right of peace and war—of sending and receiving ambassadors—of entering into treaties and alliances—of appointing a chief magistrate or pretor, as he was called, who commanded their armies; and who with the advice and consent of ten of the senators, not only administered the government in the recess of the senate, but had a great share in its deliberation, when assembled. According to the primitive constitution there were two pretors associated in the administration, but on trial, a single one was preferred.

It appears that the cities had all the same laws and customs, the same weights and measures, and the same money. But how far this effect proceeded from the authority of the federal council, is left in uncertainty. It is said only, that the cities were in a manner compelled to receive the same laws and

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pages. When Lacedemon was brought into the league by Philopoemen, it was attended with an abolition of the institutions and laws of Lycurgus, and an adoption of those of the Achæans. The Amphyctionic confederacies, of which she had been a member, left her in the full exercise of her government and her legislation. This circumstance alone proves a very material difference in the genius of the two systems.

It is much to be regretted that such imperfect monuments remain of this curious political fabric. Could its interior structure and regular operation be ascertained, it is probable that more light would be shown by it on the science of federal government, than by any of the like experiments with which we are acquainted.

One important fact seems to be witnessed by all the historians who take notice of Achæan affairs. It is, that, as well after the renovation of the league by Aratus, as before its dissolution by the arts of Lacedon, there was infinitely more of moderation and justice in the administration of its government, and less of violence and sedition in the people, than were to be found in any of the cities exercising singly the prerogatives of sovereignty. The abbé Mably, in his observations on Greece, says that the popular government, which was so tempestuous elsewhere, caused no disorders in the members of the Achæan public, *because it was there tempered by the general authority and laws of the confederacy.*

We are not to conclude too hastily, however, that faction did not in a certain degree agitate the particular cities; much less, that a due subordination and harmony reigned in the general system. The contrary is sufficiently displayed in the vicissitudes and fate of the republic.

Whilst the Amphyctionic confederacy remained, that of the Achæans, which comprehended the less important cities only, made little figure on the theatre

of Greece. When the former became a victim to Macedon, the latter was spared by the policy of Philip and Alexander. Under the successors of these princes, however, a different policy prevailed. The arts of division were practised among the Achæans; each city was seduced into a separate interest; the union was dissolved. Some of the cities fell under the tyranny of Macedonian garrisons; others under that of usurpers springing out of their own confusions. Shame and oppression ere long awakened their love of liberty. A few cities re-united. Their example was followed by others, as opportunities were found of cutting off their tyrants. The league soon embraced almost the whole Peloponnesus. Macedon saw its progress; but was hindered by internal dissensions from stopping it. All Greece caught the enthusiasm and seemed ready to unite in one confederacy, when the jealousy and envy in Sparta and Athens, of the rising glory of the Achæans, threw a fatal damp on the enterprize. The dread of the Macedonian power induced the league to court the alliance of the kings of Egypt and Syria; who, as successors of Alexander, were rivals of the king of Macedon. This policy was defeated by Cleomenes, king of Sparta, who was led by his ambition to make an unprovoked attack on his neighbours the Achæans; and who, as an enemy to Macedon, had interest enough with the Egyptian and Syrian princes, to effect a breach of their engagements with the league. The Achæans were now reduced to the dilemma of submitting to Cleomenes, or of supplicating the aid of Macedon, its former oppressor. The latter expedient was adopted. The contest of the Greeks always afforded a pleasing opportunity to that powerful neighbour, of intermeddling in their affairs. A Macedonian army quickly appeared: Cleomenes was vanquished. The Achæans soon experienced, as often happens, that a victorious and powerful ally, is but another name for a master. All that their most abject compliances

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could obtain from him was a toleration of the exercise of their laws. Philip, who was now on the throne of Macedon, soon provoked, by his tyrannies, fresh combinations among the Greeks. The Achæans, though weakened by internal dissensions, and by the revolt of Messene one of its members, being joined by the Etolians and Athenians, erected the standard of opposition. Finding themselves, though thus supported unequal to the undertaking, they once more had recourse to the dangerous expedient of introducing the succour of foreign arms. The Romans to whom the invitation was made, eagerly embraced it. Philip was conquered: Macedon subdued. A new crisis ensued to the league. Dissensions broke out among its members. These the Romans fostered. Callicrates and other popular leaders, became mercenary instruments for inveigling their countrymen. The more effectually to nourish discord and disorder, the Romans had, to the astonishment of those who confided in their sincerity, already proclaimed universal liberty* throughout Greece. With the same insidious views, they now seduced the members from the league, by representing to their pride, the violation it committed on their sovereignty. By these arts, this union, the last hope of Greece, the last hope of antient liberty, was torn into pieces; and such imbecility and distraction introduced, that the arms of Rome found little difficulty in compleating the ruin which their arts had commenced. The Achæans were cut to pieces; and Achaia loaded with chains, under which it is groaning at this hour.

I have thought it not superfluous to give the outlines of this important portion of history; both because it teaches more than one lesson; and because, as a supplement to the outlines of the

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* This was but another name more specious for the independence of the members on the federal head.

Achæan constitution, it emphatically illustrates the tendency of federal bodies, rather to anarchy among the members than to tyranny in the head.

PUBLIUS.

NUMBER XIX.

The Subject continued, with farther Examples.

THE examples of antient confederacies, cited in my last paper, have not exhausted the source of experimental instruction on this subject. There are existing institutions, founded on a similar principle, which merit particular consideration. The first which presents itself is the Germanic body.

In the early ages of christianity Germany was occupied by seven distinct nations, who had no common chief. The Franks, one of the number, having conquered the Gauls, established the kingdom which has taken its name from them. In the ninth century, Charlemagne, its warlike monarch, carried his victorious arms in every direction; and Germany became a part of his vast dominions. On the dismemberment, which took place under his sons, this part was erected into a separate and independent empire. Charlemagne and his immediate descendants possessed the reality, as well as the ensigns and dignity of imperial power. But the principal vassals, whose fiefs had become hereditary, and who composed the national diets which Charlemagne had not abolished, gradually threw off the yoke, and advanced to sovereign jurisdiction and independence. The force of imperial sovereignty was insufficient to restrain such powerful dependents; or to preserve the unity and tranquility of the empire. The most furious private wars, accompanied with every species of calamity, were carried on between the different princes and states. The

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imperial authority, unable to maintain the public order, declined by degrees, till it was almost extinct in the anarchy, which agitated the long interval between the death of the last emperor of the Suabian, and the accession of the first emperor of the Austrian lines. In the eleventh century, the emperors enjoyed full sovereignty: In the fifteenth they had little more than the symbols and decorations of power.

Out of this feudal system, which has itself many of the important features of a confederacy, has grown the federal system, which constitutes the Germanic empire. Its powers are vested in a diet representing the component members of the confederacy; in the emperor who is the executive magistrate, with a negative on the decrees of the diet; and in the imperial chamber and aulic council, two judiciary tribunals having supreme jurisdiction in controversies which concern the empire, or which happen among its members.

The diet possesses the general power of legislating for the empire—of making war and peace—contracting alliances—assessing quotas of troops and money—constructing fortresses—regulating coin—admitting new members—and subjecting disobedient members to the ban of the empire, by which the party is degraded from his sovereign rights, and his possessions forfeited. The members of the confederacy are expressly restricted from entering into compacts, prejudicial to the empire, from imposing tolls and duties on their mutual intercourse, without the consent of the emperor and diet; from altering the value of money; from doing injustice to one another; or from affording assistance or retreat to disturbers of the public peace. And the ban is denounced against such as shall violate any of these restrictions. The members of the diet, as such, are subject in all cases to be judged by the emperor and diet, and in their private capacities, by the aulic council and imperial chamber.

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The prerogatives of the emperor are numerous. The most important of them are, his exclusive right to make propositions to the diet—to negative its resolutions—to name ambassadors—to confer dignities and titles—to fill vacant electorates—to found universities—to grant privileges not injurious to the states of the empire—to receive and apply the public revenues—and generally to watch over the public safety. In certain cases, the electors form a council to him. In quality of emperor he possesses no territory within the empire; nor receives any revenue for his support. But his revenue and dominions, in other qualities, constitute him one of the most powerful princes in Europe.

From such a parade of constitutional powers, in the representatives and head of this confederacy, the natural supposition would be, that it must form an exception to the general character which belongs to its kindred systems. Nothing would be farther from the reality. The fundamental principle, on which it rests, that the empire is a community of sovereigns; that the diet is a representation of sovereigns; and that the laws are addressed to sovereigns; render the empire a nerveless body; incapable of regulating its own members; insecure against external dangers; and agitated with unceasing fermentations in its own bowels.

The history of Germany is a history of wars between the emperor and the princes and states; of wars among the princes and states themselves; of the licentiousness of the strong, and the oppression of the weak; of foreign intrusions, and foreign intrigues; of requisitions of men and money, disregarded, or partially complied with; of attempts to enforce them, altogether abortive, or attended with slaughter and desolation, involving the innocent with the guilty; of general imbecility, confusion and misery.

In the sixteenth century, the emperor with one part of the empire on his side, was seen engaged against the

the other princes and states. In one of the conflicts, the emperor himself was put to flight, and very near being made prisoner by the elector of Saxony. The late king of Prussia was more than once pitted against his imperial sovereign; and commonly proved an overmatch for him. Controversies and wars among the members themselves have been so common, that the German annals are crowded with the bloody pages which describe them. Previous to the peace of Westphalia, Germany was desolated by a war of thirty years, in which the emperor, with one half of the empire was on one side; and Sweden with the other half on the opposite side. Peace was at length negotiated and dictated by foreign powers; and the articles of it, to which foreign powers are parties, made a fundamental part of the Germanic constitution.

If the nation happens, on any emergency, to be more united by the necessity of self defence; its situation is still deplorable. Military preparations must be preceded by so many tedious discussions, arising from the jealousies, pride, separate views, and clashing pretensions, of sovereign bodies; that before the diet can settle the arrangements, the enemy are in the field; and before the federal troops are ready to take it, are retiring into winter quarters.

The small body of national troops which has been judged necessary in time of peace, is defectively kept up, badly paid, infected with local prejudices, and supported by irregular and disproportionate contributions to the treasury.

The impossibility of maintaining order, and dispensing justice among these sovereign subjects, produced the experiment of dividing the empire into nine or ten circles or districts; of giving them an interior organization; and of charging them with the military execution of the laws against delinquent and contumacious members. This experiment has only served to demonstrate more fully, the radical vice of the

the constitution. Each circle is the miniature picture of the deformities of this political monster. They either fail to execute their commissions, or they do it with all the devastation and carnage of civil war. Sometimes whole circles are defaulters, and then they increase the mischief which they were instituted to remedy.

We may form some judgment of this scheme of military coercion, from a sample given by Thuanus. In Donawerth, a free and imperial city, of the circle of Suabia, the abbé de St. Croix enjoyed certain immunities which had been reserved to him. In the exercise of these, on some public occasion, outrages were committed on him, by the people of the city. The consequence was, that the city was put under the ban of the empire; and the duke of Bavaria, though director of another circle, obtained an appointment to enforce it. He soon appeared before the city, with a corps of ten thousand troops and finding it a fit occasion, as he had secretly intended from the beginning, to revive an antiquated claim, on the pretext that his ancestors had suffered the place to be dismembered from his territory*; he took possession of it, in his own name; disarmed and punished the inhabitants, and re-annexed the city to his domains.

It may be asked perhaps what has so long kept this disjointed machine from falling entirely to pieces? The answer is obvious. The weakness of most of the members, who are unwilling to expose themselves to the mercy of foreign powers; the weakness of most of the principal members, compared with the formidable powers all around them; the vast weight and influence which the emperor derives from his separate and hereditary dominions; and the interest he feels in preserving a system, with which his family pride is connected, and which constitutes him the first prince in

* Pseffel, *Nouvel abreg. chronol. de l'hist. &c. d'Allemagne*, says the pretext was to indemnify himself for the expence of the expedition.

in Europe; these causes support a feeble and precarious union; whilst the repellent quality, incident to the nature of sovereignty, and which time continually strengthens, prevents any reform whatever, founded on a proper consolidation. Nor is it to be imagined, if this obstacle could be surmounted, that the neighbouring powers would suffer a revolution to take place, which would give to the empire the force and pre-eminence to which it is entitled. Foreign nations have long considered themselves as interested in the changes made by events in this constitution; and have, on various occasions, betrayed their policy of perpetuating its anarchy and weakness.

If more direct examples were wanting, Poland as a government over local sovereigns, might not improperly be taken notice of. Nor could any proof more striking, be given of the calamities flowing from such institutions. Equally unfit for self government, and self defence, it has long been at the mercy of its powerful neighbours; who have lately had the mercy to disburden it of one third of its people and territories.

The connection among the Swiss cantons scarcely amounts to a confederacy; though it is sometimes cited as an instance of the stability of such institutions.

They have no common treasury—no common troops even in war—no common coin—no common judicatory, nor any other common mark of sovereignty.

They are kept together by the peculiarity of their topographical position, by their individual weakness and insignificance; by the fear of powerful neighbours, to one of which they were formerly subject; by the few sources of contention among a people of such simple and homogeneous manners; by their joint interest in their dependent possessions; by the mutual aid they stand in need of, for suppressing insurrections and rebellions; an aid expressly stipulated, and often required and afforded; and by the necessity of some regular and permanent provision for accommodating

accommodating disputes among the cantons. The provision is, that the parties at variance shall each chuse four judges out of the neutral cantons who in case of disagreement, chuse an umpire. This tribunal, under an oath of impartiality, pronounces definitive sentence ; which all the cantons are bound to enforce. The competency of this regulation may be estimated, by a clause in their treaty of 1683, with Victor Amadeus of Savoy ; in which he obliges himself to interpose as mediator in disputes between the cantons ; and to employ force, if necessary, against the contumacious party.

So far as the peculiarity of their case will admit of comparison with that of the United States ; it serves to confirm the principle intended to be established. Whatever efficacy the union may have had in ordinary cases, it appears that the moment a cause of difference sprang up, capable of trying its strength, it failed. The controversies on the subject of religion, which in three instances have kindled violent and bloody contests, may be said in fact to have severed the league. The Protestant and Catholic cantons have since had their separate diets ; where all the most important concerns are adjusted, and which have left the general diet little other business than to take care of the common bailages.

That separation had another consequence which merits attention. It produced opposite alliances with foreign powers ; of Bern as the head of the Protestant association, with the United Provinces ; and of Luzerne, as the head of the Catholic association, with France.

NUMBER XX.

The Subject continued, with farther Examples.

THE United Netherlands are a confederacy of republics, or rather of aristocracies, of a very remarkable texture; yet confirming all the lessons derived from those which we have already reviewed.

The union is composed of seven co-equal and sovereign states, and each state or province is a composition of equal and independent cities. In all important cases not only the provinces, but the cities must be unanimous.

The sovereignty of the union is represented by the states general, consisting usually of about fifty deputies appointed by the provinces. They hold their seats, some for life, some for six, three and one years. From two provinces they continue in appointment during pleasure.

The states general have authority to enter into treaties and alliances—to make war and peace—to raise armies and equip fleets—to ascertain quotas and demand contributions. In all these cases however, unanimity and the sanction of their constituents are requisite. They have authority to appoint and receive ambassadors—to execute treaties and alliances already formed—to provide for the collection of duties on imports and exports—to regulate the mint, with a saving to the provincial rights—to govern as sovereigns the dependent territories. The provinces are restrained, unless with the general consent, from entering into foreign treaties—from establishing imposts injurious to others, or charging their neighbours with higher duties than their own subjects. A council of state, a chamber of accounts, with five colleges of admiralty, aid and fortify the federal administration.

The executive magistrate of the union is the stadtholder, who is now a hereditary prince. His principal weight and influence in the republic are derived from his independent title; from his great patrimonial estates; from his family connections with some of the chief potentates of Europe; and more than all, perhaps, from his being stadtholder in the several provinces, as well as for the union, in which provincial quality, he has the appointment of town magistrates under certain regulations, executes provincial decrees, presides when he pleases in the provincial tribunals; and has throughout the power of pardon.

As stadtholder of the union, he has however considerable prerogatives.

In his political capacity he has authority to settle disputes between the provinces, when other methods fail—to assist at the deliberations of the states general, and at their particular conferences—to give audiences to foreign ambassadors, and to keep agents for his particular affairs at foreign courts.

In his military capacity, he commands the federal troops—provides for garrisons, and in general regulates military affairs—disposes of all appointments from colonels to ensigns, and of the governments and posts of fortified towns.

In his marine capacity, he is admiral general, and superintends and directs every thing relative to naval forces, and other naval affairs—presides in the admiralities in person or by proxy—appoints lieutenant admirals and other officers—and establishes councils of war, whose sentences are not executed till he approves them.

His revenue, exclusive of his private income, amounts to 300,000 florins. The standing army which he commands consists of about 40,000 men.

Such is the nature of the celebrated Belgic confederacy, as delineated on parchment. What are the characters which practice has stamped upon it?

Imbecility

Imbecility in the government; discord among the provinces; foreign influence and indignities; a precarious existence in peace, and peculiar calamities from war.

It was long ago remarked by Grotius, that nothing but the hatred of his countrymen to the house of Austria, kept them from being ruined by the vices of their constitution.

The union of Utrecht, says another respectable writer, reposes an authority in the states general seemingly sufficient to secure harmony, but the jealousy in each province renders the practice very different from the theory.

The same instrument says another, obliges each province to levy certain contributions; but this article never could and probably never will be executed; because the inland provinces who have little commerce cannot pay an equal quota.

In matters of contribution, it is the practice to waive the articles of the constitution. The danger of delay obliges the consenting provinces to furnish their quotas, without waiting for the others; and then to obtain reimbursement from the others, by deputations, which are frequent, or otherwise as they can. The great wealth and influence of the province of Holland, enable her to effect both these purposes.

It has more than once happened that the deficiencies have been ultimately to be collected at the point of the bayonet; a thing practicable, though dreadful, in a confederacy, where one of the members exceeds in force all the rest; and where several of them are too small to meditate resistance: But utterly impracticable in one composed of members, several of which are equal to each other in strength and resources, and equal singly to a vigorous and persevering defence.

Foreign ministers, says Sir William Temple, who was himself a foreign minister, elude matters taken *ad referendum*, by tampering with the provinces and cities.

cities. In 1726, the treaty of Hanover was delayed by these means a whole year. Instances of a like nature are numerous and notorious.

In critical emergencies, the states general are often compelled to overleap their constitutional bounds. In 1688, they concluded a treaty of themselves at the risk of their heads. The treaty of Westphalia in 1648, by which their independence was formally and finally recognized, was concluded without the consent of Zeland. Even as recently as the last treaty of peace with Great-Britain, the constitutional principle of unanimity was departed from. A weak constitution must necessarily terminate in dissolution, for want of proper powers, or the usurpation of powers requisite for the public safety. Whether the usurpation, when once begun, will stop at the salutary point, or go forward to the dangerous extreme, must depend on the contingencies of the moment. Tyranny has perhaps oftener grown out of the assumptions of power, called for, on pressing exigencies, by a defective constitution, than out of the full exercise of the largest constitutional authorities.

Notwithstanding the calamities produced by the stadtholdership, it has been supposed, that without his influence in the individual provinces, the causes of anarchy manifest in the confederacy, would long ago have dissolved it. "Under such a government," says the abbè Mably, the union could never have subsisted, if the provinces had not a spring within themselves, capable of quickening their tardiness, and compelling them to the same way of thinking. "This spring is the stadtholder." It is remarked by Sir William Temple, "that in the intermissions of the stadtholdership, Holland by her riches and her authority which drew the others into a sort of dependence, supplied the place."

These are not the only circumstances which have controuled the tendency to anarchy and dissolution. The surrounding powers impose an absolute necessity

of union to a certain degree, at the same time, that they nourish by their intrigues, the constitutional vices, which keep the republic in some degree always at their mercy.

The true patriots have long bewailed the fatal tendency of these vices and have made no less than four regular experiments, by *extraordinary assemblies*, convened for the special purpose, to apply a remedy: As many times, has their laudable zeal found it impossible to *unite the public councils* in reforming the known, the acknowledged, the fatal evils of the existing constitution. Let us pause my fellow citizens, for one moment, over this melancholy and monitory lesson of history; and with the tear that drops for the calamities brought on mankind by their adverse opinions and selfish passions; let our gratitude mingle an ejaculation to Heaven, for the propitious concord which has distinguished the consultations for our political happiness.

A design was also conceived of establishing a general tax to be administered by the federal authority. This also had its adversaries and failed.

This unhappy people seem to be now suffering from popular convulsions, from dissensions among the states and from the actual invasion of foreign arms, the crisis of their destiny. All nations have their eyes fixed on the awful spectacle. The first wish prompted by humanity is, that this severe trial may issue in such a revolution of their government, as will establish their union, and render it the parent of tranquility, freedom and happiness: The next, that the asylum under which, we trust, the enjoyment of these blessings, will speedily be secured in this country, may receive and console them for the catastrophe of their own.

I make no apology for having dwelt so long on the contemplation of these federal precedents. Experience is the oracle of truth; and where its responses are unequivocal, they ought to be conclusive and sacred. The important truth, which it unequivocally pro-

nounces in the present case, is, that a sovereignty over sovereigns, a government over governments, a legislation for communities, as contradicting itself from individuals; as it is a solecism in theory; so in practice, it is subversive of the order and ends of civil polity, by substituting *violence* in place of *law*, or the destructive *coercion* of the *sword*, in place of the mild and salutary *coercion* of the *magistracy*.

PUBLIUS.

NUMBER XXI.

Further Defects of the present Constitution

HAVING in the three last numbers taken a summary review of the principal circumstances and events which depict the genius and fate of other confederate governments; I shall now proceed in the enumeration of the most important of those defects, which have hitherto disappointed our hopes from the system established among ourselves. To form a safe and satisfactory judgment of the proper remedy, it is absolutely necessary that we should be well acquainted with the extent and malignity of the disease.

The next most palpable defect of the existing confederation is the total want of a *SANCTION* to its laws. The United States as now composed, have no power to exact obedience, or punish disobedience to their resolutions, either by pecuniary mulcts, by a suspension or divestiture of privileges, or by any other constitutional means. There is no express delegation of authority to them to use force against delinquent members; and if such a right should be ascribed to the federal head, as resulting from the nature of the social compact between the states, it must be by inference and construction, in the face of that part of the second article, by which it is declared, "that

" each

each state shall retain every power, jurisdiction and right, not *expressly* delegated to the United States in Congress assembled." The want of such a right involves no doubt a striking absurdity; but we are reduced to the dilemma either of supposing that deficiency, preposterous as it may seem, or of contravening or explaining away a provision, which has been of late a repeated theme of the eulogies of those, who oppose the new constitution; and the omission of which in that plan, has been the subject of much plausible animadversion and severe criticism. If we are unwilling to impair the force of this applauded provision, we shall be obliged to conclude, that the United States afford the extraordinary spectacle of a government, destitute even of the shadow of constitutional power to enforce the execution of its own laws. It will appear from the specimens which have been cited, that the American confederacy in this particular, stands discriminated from every other institution of a similar kind, and exhibits a new and unexampled phenomenon in the political world.

The want of a mutual guarantee of the state governments is another capital imperfection in the federal plan. There is nothing of this kind declared in the articles that compose it; and to imply a tacit guarantee from considerations of utility, would be a still more flagrant departure from the clause which has been mentioned, than to imply a tacit power of coercion, from the like considerations. The want of a guarantee, though it might in its consequences endanger the union, does not so immediately attack its existence as the want of a constitutional sanction to its laws.

Without a guarantee, the assistance to be derived from the union in repelling those domestic dangers, which may sometimes threaten the existence of the state constitutions, must be renounced. Usurpation may rear its crest in each state, and trample upon the liberties of the people; while the national government

government could legally do nothing more than behold its encroachments with indignation and regret. A successful faction may erect a tyranny on the ruins of order and law, while no succour could constitutionally be afforded by the union to the friends and supporters of the government. The tempestuous situation, from which Massachusetts has scarcely emerged, evinces that dangers of this kind are not merely speculative. Who can determine what might have been the issue of her late convulsions, if the mal-contented had been headed by a Cesar or by a Cromwell? Who can predict what effect a despotism established in Massachusetts would have upon the liberties of New-Hampshire or Rhode-Island; or Connecticut or New-York.

The inordinate pride of state importance has suggested to some minds an objection to the principle of a guarantee in the federal government; as involving an officious interference in the domestic concerns of the members. A scruple of this kind would deprive us of one of the principal advantages to be expected from union; and can only flow from a misapprehension of the nature of the provision itself. It could be no impediment to reforms of the state constitutions by a majority of the people in a legal and peaceable mode. This right would remain undiminished. The guarantee could only operate against changes to be effected by violence. Towards the prevention of calamities of this kind too many checks cannot be provided. The peace of society, and the stability of government, depend absolutely on the efficacy of the precautions adopted on this head. Where the whole power of the government is in the hands of the people, there is the less pretence for the use of violent remedies, in partial or occasional distempers of the state. The natural cure for an ill administration, in a popular or representative constitution, is a change of men. A guarantee by the national authority would be as much directed against the usurpations of rulers, as

against

against the ferments and outrages of faction and sedition in the community.

The principle of regulating the contributions of the states to the common treasury by QUOTAS is another fundamental error in the confederation. Its repugnancy to an adequate supply of the national exigencies has been already pointed out, and has sufficiently appeared from the trial which has been made of it. I speak of it now solely with a view to equality among the states. Those who have been accustomed to contemplate the circumstances, which produce and constitute national wealth, must be satisfied that there is no common standard, or barometer, by which the degrees of it can be ascertained. Neither the value of lands nor the numbers of the people, which have been successively proposed as the rule of state contributions, has any pretension to being a just representative. If we compare the wealth of the United Netherlands with that of Russia or Germany or even of France, and if we at the same time compare the total value of the lands, and the aggregate population of the contracted territory of that republic, with the total value of the lands, and the aggregate population of the immense regions of either of those kingdoms, we shall at once discover that there is no comparison between the proportion of either of these two objects and that of the relative wealth of those nations. If the like parallel were to be run between several of the American states; it would furnish a like result. Let Virginia be contrasted with North-Carolina, Pennsylvania with Connecticut, or Maryland with New-Jersey, and we shall be convinced that the respective abilities of those states, in relation to revenue, bear little or no analogy to their comparative stock in lands or to their comparative population.—The position may be equally illustrated by a similar process between the counties of the same state. No man acquainted with the state of New-York will doubt, that the active wealth of Kings county bears
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a much greater proportion to that of Montgomery than it would appear to do, if we should take either the total value of the lands or the total numbers of the people as a criterion!

The wealth of nations depends upon an infinite variety of causes. Situation, soil, climate, the nature of the productions, the nature of the government, the genius of the citizens—the degree of information they possess—the state of commerce, of arts, of industry—these circumstances and many more too complex, minute, or adventitious, to admit of a particular specification, occasion differences hardly conceivable in the relative opulence and riches of different countries. The consequence clearly is, that there can be no common measure of national wealth; and of course, no general or stationary rule, by which the ability of a state to pay taxes can be determined. The attempt therefore to regulate the contributions of the members of a confederacy, by any such rule, cannot fail to be productive of glaring inequality and extreme oppression.

This inequality would of itself be sufficient in America to work the eventual destruction of the union, if any mode of enforcing a compliance with its requisitions could be devised. The suffering states would not long consent to remain associated upon a principle which distributed the public burthens with so unequal a hand; and which was calculated to impoverish and oppress the citizens of some states, while those of others would scarcely be conscious of the small proportion of the weight they were required to sustain. This however is an evil inseparable from the principle of quotas and requisitions.

There is no method of steering clear of this inconvenience but by authorising the national government to raise its own revenues in its own way. Impolls, excises and in general all duties upon articles of consumption may be compared to a fluid, which will in time find its level with the means of paying them.

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The amount to be contributed by each citizen will in a degree be at his own option, and can be regulated by an attention to his resources. The rich may be extravagant, the poor can be frugal. And private oppression, may always be avoided by a judicious selection of objects proper for such impositions. If inequalities should arise in some states from duties on particular objects, these will in all probability be counterbalanced by proportional inequalities in other states from the duties on other objects. In the course of time and things, an equilibrium, as far as it is attainable, in so complicated a subject, will be established every where. Or if inequalities should still exist they would neither be so great in their degree, so uniform in their operation, nor so odious in their appearance, as those which would necessarily spring from quotas upon any scale, that can possibly be devised.

It is a signal advantage of taxes on articles of consumption, that they contain in their own nature a security against excess. They prescribe their own limit; which cannot be exceeded without defeating the end proposed—that is an extension of the revenue. When applied to this object, the saying is as just as it is witty, that “in political arithmetic, two and two do not always make four.” If duties are too high they lessen the consumption—the collection is eluded; and the product to the treasury is not so great as when they are confined within proper and moderate bounds. This forms a compleat barrier against any material oppression of the citizens, by taxes of this class, and is itself a natural limitation of the power of imposing them.

Impositions of this kind usually fall under the denomination of indirect taxes, and must for a long time constitute the chief part of the revenue raised in this country. Those of the direct kind, which principally relate to lands and buildings, may admit of a rule of apportionment. Either the value of land,

or

or the number of the people may serve as a standard. The state of agriculture, and the populousness of a country, are considered as having a near relation to each other. And as a rule for the purpose intended, numbers in the view of simplicity and certainty, are entitled to a preference. In every country it is an Herculean task to obtain a valuation of the land; in a country imperfectly settled and progressive in improvement, the difficulties are increased almost to impracticability. The expence of an accurate valuation is in all situations a formidable objection. In a branch of taxation where no limits to the discretion of the government are to be found in the nature of the thing, the establishment of a fixed rule, not incompatible with the end, may be attended with fewer inconveniencies than to leave that discretion altogether at large.

PUBLIUS

N U M B E R XXII.

The same Subject continued and concluded.

IN addition to the defects already enumerated in the existing federal system, there are others of not less importance, which concur in rendering it altogether unfit for the administration of the affairs of the union.

The want of a power to regulate commerce is by all parties allowed to be of the number. The utility of such a power has been anticipated under the first head of our enquiries; and for this reason as well as from the universal conviction entertained upon the subject, little need be added in this place. It is indeed evident, on the most superficial view, that there is no object, either as it respects the interests of trade or finance that more strongly demands a federal

Federal superintendence. The want of it has already operated as a bar to the formation of beneficial treaties with foreign powers; and has given occasions of dissatisfaction between the states. No nation acquainted with the nature of our political association would be so unwise enough to enter into stipulations with the United States, conceding on their part privileges of importance, while they were apprised that the engagements on the part of the union, might at any moment be violated by its members; and while they found from experience that they might enjoy every advantage they desired in our markets, without granting us any return, but such as their momentary convenience might suggest. It is not therefore to be wondered at, that Mr. Jenkinson in ushering into the house of commons a bill for regulating the temporary intercourse between the two countries, should preface its introduction by a declaration that similar provisions in former bills had been found to answer every purpose to the commerce of Great Britain, and that it would be prudent to persist in the plan until it should appear whether the American government was likely or not to acquire greater consistency*.

Several states have endeavoured by separate prohibitions, restrictions and exclusions, to influence the conduct of that kingdom in this particular; but the want of concert, arising from the want of a general authority, and from clashing and dissimilar views in the states, has hitherto frustrated every experiment of the kind; and will continue to do so as long as the same obstacles to an uniformity of measures continue to exist.

The interfering and unneighbourly regulations of some states, contrary to the true spirit of the union, have in different instances given just cause of umbrage and complaint to others; and it is to be feared that

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examples

* This, as nearly as I can recollect, was the sense of this speech in introducing the last bill.

examples of this nature, if not restrained by a national controul, would be multiplied and extended till they became not less serious sources of animosity and discord, than injurious impediments to the intercourse between the different parts of the confederacy. "The commerce of the German empire*, is in continual trammels from the multiplicity of the duties which the several princes and states exact upon the merchandizes passing through their territories; by means of which the fine streams and navigable rivers with which Germany is so happily watered, are rendered almost useless." Though the genius of the people of this country might never permit this description to be strictly applicable to us, yet we may reasonably expect, from the gradual conflicts of state regulations, that the citizens of each, would at length come to be considered and treated by the others in no better light than that of foreigners and aliens.

The power of raising armies, by the most obvious construction of the articles of the confederation, is merely a power of making requisitions upon the states for quotas of men. This practice, in the course of the late war, was found replete with obstructions to a vigorous and to an economical system of defence. It gave birth to a competition between the states, which created a kind of auction for men. In order to furnish the quotas required of them, they outbid each other, till bounties grew to an enormous and insupportable size. The hope of a still further increase afforded an inducement to those who were disposed to serve to procrastinate their enlistment; and disinclined them to engaging for any considerable periods. Hence slow and scanty levies of men in the most critical emergencies of our affairs—short enlistments at an unparalleled expence—continual fluctuations in the troops, ruinous to their discipline, and subjecting the public safety frequently to the perilous crisis of a disbanded army.—Hence also those oppressive expedients

* Encyclopedie, article Empire.

dients for raising men which were upon several occasions practised, and which nothing but the enthusiasm of liberty would have induced the people to endure.

This method of raising troops is not more unfriendly to economy and vigor, than it is to an equal distribution of the burthen. The states near the seat of war, influenced by motives of self preservation made efforts to furnish their quotas, which even exceeded their abilities, while those at a distance from danger were for the most part as remiss as the others were diligent in their exertions. The immediate pressure of this inequality was not in this case, as in that of the contributions of money, alleviated by the hope of a final liquidation. The states which did not pay their proportions of money, might at least be charged with their deficiencies; but no account could be formed of the deficiencies in the supplies of men. We shall not, however, see much reason to regret the want of this hope, when we consider how little prospect there is, that the most delinquent states ever will be able to make compensation for their pecuniary failures. The system of quotas and requisitions, whether it be applied to men or money, is in every view a system of imbecility in the union, and of inequality and injustice among the members.

The right of equal suffrage among the states is another exceptionable part of the confederation. Every idea of proportion, and every rule of fair representation conspire to condemn a principle, which gives to Rhode-Island an equal weight in the scale of power with Massachusetts, or Connecticut, or New-York; and to Delaware, an equal voice in the national deliberations with Pennsylvania or Virginia, or North-Carolina. Its operation contradicts that fundamental maxim of republican government, which requires that the sense of the majority should prevail. Sophistry may reply, that sovereigns are equal, and that a majority of the votes of the states will be a majority of confederated America. But this kind of

logical legerdemain will never counteract the plain suggestions of justice and common sense. It may happen that this majority of states is a small minority of the people of America*; and two thirds of the people of America, could not long be persuaded, upon the credit of artificial distinctions and syllogistic subtleties, to submit their interests to the management and disposal of one third. The larger states would after a while revolt from the idea of receiving the law from the smaller. To acquiesce in such a privation of their due importance in the political scale, would be not merely to be insensible to the love of power, but even to sacrifice the desire of equality. It is neither rational to expect the first, nor just to require the last—the smaller states considering how peculiarly their safety and welfare depend on union, ought readily to renounce a pretension; which, if not relinquished would prove fatal to its duration.

It may be objected to this, that not seven but nine states, or two thirds of the whole number must consent to the most important resolutions; and it may be thence infered, that nine states would always comprehend a majority of the inhabitants of the union. But this does not obviate the impropriety of an equal vote between states of the most unequal dimensions and populousness; nor is the inference accurate in point of fact; for we can enumerate nine states which contain less than a majority of the people†; and it is constitutionally possible, that these nine may give the vote. Besides there are matters of considerable moment determinable by a bare majority; and there are others, concerning which doubts have been entertained, which if interpreted in favor of the sufficiency

* New-Hampshire, Rhode-Island, New-Jersey, Delaware, Georgia, South-Carolina and Maryland, are a majority of the whole number of the States, but they do not contain one third of the people.

† Add New-York and Connecticut to the foregoing seven, and they will still be less than a majority.

Insufficiency of a vote of seven states, would extend its operation to interests of the first magnitude. In addition to this, it is to be observed, that there is a probability of an increase in the number of states; and no provision for a proportional augmentation of the ratio of votes.

But this is not all; what at first sight may seem a remedy, is in reality a poison. To give a minority a negative upon the majority (which is always the case where more than a majority is requisite to a decision) is in its tendency to subject the sense of the greater number to that of the lesser number. Congress from the non attendance of a few states have been frequently in the situation of a Polish diet, where a single veto has been sufficient to put a stop to all their movements. A sixtieth part of the union, which is about the proportion of Delaware and Rhode-Island, has several times been able to oppose an entire bar to its operations. This is one of those refinements which in practice has an effect, the reverse of what is expected from it in theory. The necessity of unanimity in public bodies, or of something approaching towards it, has been founded upon a supposition that it would contribute to security. But its real operation is to embarrass the administration; to destroy the energy of government, and to substitute the pleasure, caprice or artifices of an insignificant, turbulent or corrupt junto; to the regular deliberations and decisions of a respectable majority. In those emergencies of a nation, in which the goodness or badness, the weakness or strength of its government, is of the greatest importance; there is commonly a necessity for action. The public business must in some way or other go forward. If a pertinacious minority can controul the opinion of a majority respecting the best mode of conducting it; the majority, in order that something may be done, must conform to the views of the minority; and thus the sense of the smaller number will over rule that of

the greater and give a tone to the national proceedings. Hence tedious delays—continual negotiation and intrigue—contemptible compromises of the public good. And yet in such a system, it is even happy when such compromises can take place: For upon some occasions, things will not admit of accommodation; and then the measures of government must be injuriously suspended or fatally defeated. It is often, by the impracticability of obtaining the concurrence of the necessary number of votes, kept in a state of inaction. Its situation must always savour of weakness—sometimes border upon anarchy.

It is not difficult to discover that a principle of this kind gives greater scope to foreign corruption as well as to domestic faction, than that which permits the sense of the majority to decide; though the contrary of this has been presumed. The mistake has proceeded from not attending with due care to the mischiefs that may be occasioned by obstructing the progress of government at certain critical seasons. When the concurrence of a large number is required by the constitution to the doing of any national act, we are apt to rest satisfied that all is safe, because nothing improper will be likely *to be done*; but we forget how much good may be prevented, and how much ill may be produced, by the power of hindering that which is necessary from being done, and of keeping affairs in the same unfavourable posture in which they may happen to stand at particular periods.

Suppose for instance we were engaged in a war, in conjunction with one foreign nation against another. Suppose the necessity of our situation demanded peace, and the interest or ambition of our ally led him to seek the prosecution of the war, with views that might justify us in making separate terms. In such a state of things this ally of ours would evidently find it much easier by his bribes and his intrigues to tie up the hands of government from making peace, where two thirds of all the votes were requisite to

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that object, than where a simple majority would suffice. In the first case he would have to corrupt a smaller number; in the last a greater number. Upon the same principle it would be much easier for a foreign power with which we were at war, to perplex our councils and embarrass our exertions. And in a commercial view we may be subjected to similar inconveniencies. A nation with which we might have a treaty of commerce, could with much greater facility prevent our forming a connection with her competitor in trade; though such a connection should be ever so beneficial to ourselves.

Evils of this discription ought not to be regarded as imaginary. One of the weak sides of republics, among their numerous advantages, is, that they afford too easy an inlet to foreign corruption. An hereditary monarch, though often disposed to sacrifice his subjects to his ambition, has so great a personal interest in the government, and in the external glory of the nation, that it is not easy for a foreign power to give him an equivalent for what he would sacrifice by treachery to the state. The world has accordingly been witness to few examples of this species of royal prostitution, though there have been abundant specimens of every other kind.

In republics, persons elevated from the mass of the community, by the suffrages of their fellow citizens, to stations of great pre-eminence and power, may find compensations for betraying their trust, which to any but minds actuated by superior virtue may appear to exceed the proportion of interest they have in the common stock, and to over-balance the obligations of duty. Hence it is that history furnishes us with so many mortifying examples of the prevalency of foreign corruption in republican governments. How much this contributed to the ruin of the ancient commonwealths has been already disclosed. It is well known that the deputies of the United Provinces have, in various instances been purchased by the emissaries

emissaries of the neighbouring kingdoms. The earl of Chesterfield (if my memory serves me right) in a letter to his court, intimates that his success in an important negotiation, must depend on his obtaining a major's commission for one of those deputies. And in Sweden, the parties were alternately bought by France and England, in so barefaced and notorious a manner that it excited universal disgust in the nation; and was a principal cause that the most limited monarch in Europe, in a single day, without tumult, violence, or opposition, became one of the most absolute and uncontrouled.

A circumstance, which crowns the defects of the confederation, remains yet to be mentioned—the want of a judiciary power. Laws are a dead letter without courts to expound and define their true meaning and operation. The treaties of the United States, to have any force at all, must be considered as part of the law of the land. Their true import, as far as respects individuals, must, like all other laws, be ascertained by judicial determinations. To produce uniformity in these determinations, they ought to be submitted in the last resort, to one SUPREME TRIBUNAL. And this tribunal ought to be instituted under the same authority which forms the treaties themselves. These ingredients are both indispensable. If there is in each state a court of final jurisdiction, there may be as many different final determinations on the same point, as there are courts. There are endless diversities in the opinions of men. We often see not only different courts, but the judges of the same court differing from each other. To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicatories, all nations have found it necessary to establish one court paramount to the rest, possessing a general superintendence, and authorised to settle and declare in the last resort an uniform rule of civil justice.

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This is the more necessary where the frame of the government is so compounded, that the laws of the whole are in danger of being contravened by the laws of the parts. In this case, if the particular tribunals are invested with a right of ultimate jurisdiction, besides the contradictions to be expected from difference of opinion, there will be much to fear from the bias of local views and prejudices, and from the interference of local regulations. As often as such an interference was to happen, there would be reason to apprehend, that the provisions of the particular laws might be preferred to those of the general laws; from the deference with which men in office naturally look up to that authority to which they owe their official existence. The treaties of the United States, under the present constitution, are liable to the infractions of thirteen different legislatures, and as many different courts of final jurisdiction, acting under the authority of those legislatures. The faith, the reputation, the peace of the whole union, are thus continually at the mercy of the prejudices, the passions, and the interests of every member of which it is composed. Is it possible that foreign nations can either respect or confide in such a government? Is it possible that the people of America will longer consent to trust their honor, their happiness, their safety, on so precarious a foundation?

In this review of the confederation, I have confined myself to the exhibition of its most material defects, passing over those imperfections in its details, by which even a considerable part of the power intended to be conferred upon it, has been in a great measure rendered abortive. It must be by this time evident to all men of reflection, who are either free from erroneous prepossessions or can divest themselves of them, that it is a system so radically vicious and unsound, as to admit not of amendment but by an entire change in its leading features and characters.

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The organization of congress, is itself utterly improper for the exercise of those powers which are necessary to be deposited in the union. A single assembly may be a proper receptacle of those slender or rather fettered authorities, which have been heretofore delegated to the federal head; but it would be inconsistent with all the principles of good government, to intrust it with those additional powers which even the moderate and more rational adversaries of the proposed constitution admit, ought to reside in the United States. If that plan should not be adopted, and if the necessity of union should be able to withstand the ambitious aims of those men, who may indulge magnificent schemes of personal aggrandizement from its dissolution; the probability would be, that we should run into the project of conferring supplementary powers upon congress as they are now constituted. And either the machine, from the intrinsic feebleness of its structure, will moulder into pieces in spite of our ill-judged efforts to prop it; or by successive augmentations of its force and energy, a necessity might prompt, we shall finally accumulate in a single body, all the most important prerogatives of sovereignty; and thus entail upon our posterity one of the most execrable forms of government that human infatuation ever contrived. Thus we should create in reality that very tyranny, which the adversaries of the new constitution either are, or affect to be solicitous to advert.

It has not a little contributed to the infirmities of the existing federal system, that it never had a ratification by the PEOPLE. Resting on no better foundation than the consent of the several legislatures, it has been exposed to frequent and intricate questions concerning the validity of its powers; and has in some instances given birth to the enormous doctrine of a right of legislative repeal. Owing its ratification to the law of a state, it has been contended, that the same authority might repeal the law by which it was ratified.

ratified. However gross a heresy it may be to maintain that a party to a compact has a right to revoke that compact, the doctrine itself has had respectable advocates. The possibility of a question of this nature, proves the necessity of laying the foundations of our national government deeper than in the mere sanction of delegated authority. The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE. The streams of national power ought to flow immediately from that pure original fountain of all legitimate authority.

PUBLIUS.

NUMBER XXIII.

The necessity of a Government, at least equally energetic with the one proposed.

THE necessity of a constitution, at least equally energetic with the one proposed, to the preservation of the union, is the point, at the examination of which we are now arrived.

This inquiry will naturally divide itself into three branches—the objects to be provided for by a federal government—the quantity of power necessary to the accomplishment of those objects—the persons upon whom that power ought to operate. Its distribution and organisation will more properly claim our attention under the succeeding head.

The principal purposes to be answered by union are these—the common defence of the members—the preservation of the public peace as well against internal convulsions as external attacks—the regulation of commerce with other nations and between the states—the superintendence of our intercourse political and commercial with foreign countries.

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The authorities essential to the care of the common defence are these—to raise armies—to build and equip fleets—to prescribe rules for the government of both—to direct their operations—to provide for their support. These powers ought to exist without limitation: Because it is impossible to foresee or to define the extent and variety of national exigencies, and the correspondent extent and variety of the means which may be necessary to satisfy them. The circumstances that endanger the safety of nations are infinite; and for this reason, no constitutional shackles can wisely be imposed on the power to which the care of it is committed. This power ought to be coextensive with all the possible combinations of such circumstances; and ought to be under the direction of the same councils, which are appointed to preside over the common defence.

This is one of those truths which to a correct and unprejudiced mind carries its own evidence along with it; and may be obscured, but cannot be made plainer by argument or reasoning. It rests upon axioms as simple as they are universal—the *means* ought to be proportioned to the *end*;—the persons from whose agency the attainment of any *end* is expected, ought to possess the *means* by which it is to be attained.

Whether there ought to be a federal government intrusted with the care of the common defence is a question, in the first instance, open to discussion; but the moment it is decided in the affirmative, it will follow, that that government ought to be clothed with all the powers requisite to the complete execution of its trust. And unless it can be shewn, that the circumstances which may affect the public safety are reducible within certain determinate limits; unless the contrary of this position can be fairly and rationally disputed, it must be admitted as a necessary consequence, that there can be no limitation of that authority, which is to provide for the defence
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and protection of the community, in any matter essential to its efficacy; that is in any matter essential to the *formation, direction or support* of the NATIONAL FORCES.

Defective as the present confederation has been proved to be, this principle appears to have been fully recognised by the framers of it; though they have not made proper or adequate provision for its exercise. Congress have an unlimited discretion to make requisitions of men and money—to govern the army and navy—to direct their operations. As their requisitions are made constitutionally binding upon the states, who are in fact under the most solemn obligations to furnish the supplies required of them, the intention evidently was, that the United States should command whatever resources were by them judged requisite to the “common defence and general welfare.” It was presumed that a sense of their true interests and a regard to the dictates of good faith would be found sufficient pledges for the punctual performance of the duty of the members to the federal head.

The experiment has however demonstrated, that this expectation was ill founded and illusory; and the observations made under the last head will, I imagine, have sufficed to convince the impartial and discerning, that there is an absolute necessity for an entire change in the first principles of the system: That if we are in earnest about giving the union energy and duration, we must abandon the vain project of legislating upon the states in their collective capacities; we must extend the laws of the federal government to the individual citizens of America; we must discard the fallacious scheme of quotas and requisitions, as equally impracticable and unjust. The result from all this is, that the union ought to be invested with full power to levy troops—to build and equip fleets and to raise the revenues which will be required for the formation and support of an army and navy,

in the customary and ordinary modes practiced in other governments.

If the circumstances of our country are such, as to demand a compound instead of a simple, a confederate instead of a sole government, the essential point which will remain to be adjusted, will be to discriminate the OBJECTS, as far as it can be done, which shall appertain to the different provinces or departments of power; allowing to each the most ample authority for fulfilling THOSE which may be committed to its charge. Shall the union be constituted the guardian of the common safety? Are fleets and armies and revenues necessary to this purpose? The government of the union must be empowered to pass all laws, and to make all regulations which have relation to them. The same must be the case, in respect to commerce, and to every other matter to which its jurisdiction is permitted to extend. Is the administration of justice between the citizens of the same state, the proper department of the local governments? These must possess all the authorities which are connected with this object, and with every other that may be allotted to their particular cognizance and direction. Not to confer in each case a degree of power, commensurate to the end, would be to violate the most obvious rules of prudence and propriety, and improvidently to trust the great interests of the nation to hands, which are disabled from managing them with vigour and success.

Who so likely to make suitable provisions for the public defence, as that body to which the guardianship of the public safety is confided—which, as the centre of information, will best understand the extent and urgency of the dangers that threaten—as the representative of the WHOLE will feel itself most deeply interested in the preservation of every part—which, from the responsibility implied in the duty assigned to it, will be most sensibly impressed with the necessity of proper exertions—and which, by the

extension

extension of its authority throughout the states can alone establish uniformity and concert in the plans and measures, by which the common safety is to be secured? Is there not a manifest inconsistency in devolving upon the federal government the care of the general defence, and leaving in the state governments the *effective* powers, by which it is to be provided for? Is not a want of co-operation the infallible consequence of such a system? And will not weakness, disorder, an undue distribution of the burthens and calamities of war, an unnecessary and intolerable increase of expence, be its natural and inevitable concomitants? Have we not had unequivocal experience of its effects in the course of the revolution, which we have just achieved?

Every view we may take of the subject, as candid inquiries after truth, will serve to convince us, that it is both unwise and dangerous to deny the federal government an unconfined authority in respect to all those objects which are intrusted to its management. It will indeed deserve the most vigilant and careful attention of the people to see, that it be modelled in such a manner as to admit of its being safely vested with the requisite powers. If any plan, which has been, or may be offered to our consideration should not upon a dispassionate inspection be found to answer this description, it ought to be rejected. A government, the constitution of which renders it unfit to be trusted with all the powers which a free people *ought to delegate to any government*, would be an unsafe and improper depository of the NATIONAL INTERESTS. Wherever THESE can with propriety be confided, the coincident powers may safely accompany them. This is the true result of all just reasoning upon the subject. And the adversaries of the plan, promulgated by the convention, would have given a better impression of their candour, if they had confined themselves to showing that the internal structure of the proposed government, was such as to render it unworthy of

the confidence of the people. They ought not to have wandered into inflammatory declamations and unmeaning cavils about the extent of the powers. The powers are not too extensive for the objects of federal administration, or in other words for the management of our NATIONAL INTERESTS; nor can any satisfactory argument be framed to show that they are chargeable with such an excess. If it be true, as has been insinuated by some of the writers on the other side, that the difficulty arises from the nature of the thing, and that the extent of the country will not permit us to form a government, in which such ample powers can safely be reposed, it would prove that we ought to contract our views and resort to the expedient of separate confederacies, which will move within more practicable spheres. For the absurdity must continually stare us in the face of confiding to a government the direction of the most essential national interests, without daring to trust it with the authorities which are indispensable to their proper and efficient management. Let us not attempt to reconcile contradictions, but firmly embrace a rational alternative.

I trust, however, that the impracticability of one general system cannot be shewn. I am greatly mistaken if any thing of weight has yet been advanced of this tendency; and I flatter myself, that the observations, which have been made in the course of these papers, have served to place the reverse of that position in as clear a light as any matter still in the womb of time and experience can be susceptible of. This at all events must be evident, that the very difficulty itself, drawn from the extent of the country is the strongest argument in favor of an energetic government; for any other can certainly never preserve the union of so large an empire. If we embrace the tenets of those, who oppose the adoption of the proposed constitution, as the standard of our political creed, we cannot fail to verify the gloomy doctrines

doctrines, which predict the impracticability of a national system, pervading the entire limits of the present confederacy.

PUBLIUS.

N U M B E R XXIV.

*The Subject continued, with an Answer to an
Objection concerning standing Armies.*

TO the powers proposed to be conferred upon the federal government in respect to the creation and direction of the national forces—I have met with but one specific objection; which if I understand it right is this—that proper provision has not been made against the existence of standing armies in time of peace: An objection which I shall now endeavour to shew, rests on weak and unsubstantial foundations.

It has indeed been brought forward in the most vague and general form, supported only by bold assertions, without the appearance of argument—without even the sanction of theoretical opinions, in contradiction to the practice of other free nations, and to the general sense of America, as expressed in most of the existing constitutions. The propriety of this remark will appear the moment it is recollected that the objection under consideration turns upon a supposed necessity of restraining the LEGISLATIVE authority of the nation, in the article of military establishments; a principle unheard of except in one or two of our state constitutions, and rejected in all the rest.

A stranger to our politics who was to read our newspapers at the present juncture, without having previously inspected the plan reported by the convention, would be naturally led to one of two conclusions—either that it contained a positive injunction,

that standing armies should be kept up in time of peace, or that it vested in the EXECUTIVE the whole power of levying troops, without subjecting his discretion in any shape to the controul of the legislature.

If he came afterwards to peruse the plan itself, he would be surpris'd to discover that neither the one nor the other was the case—that the whole power of raising armies was lodged in the *legislature*, not in the *executive*; that this legislature was to be a popular body consisting of the representatives of the people periodically elected—and that instead of the provision he had supposed in favor of standing armies, there was to be found in respect to this object, an important qualification even of the legislative discretion, in that clause which forbids the appropriation of money for the support of an army for any longer period than two years: A precaution which, upon a nearer view of it, will appear to be a great and real security against military establishments without evident necessity.

Disappointed in his first surmise, the person I have supposed would be apt to pursue his conjectures a little further. He would naturally say to himself, it is impossible that all this vehement and pathetic declamation can be without some colorable pretext. It must needs be that this people, so jealous of their liberties, have in all the preceding models of the constitutions which they have established, inserted the most precise and rigid precautions on this point, the omission of which in the new plan has given birth to all this apprehension and clamour.

If under this impression he proceeded to pass in review the several state constitutions, how great would be his disappointment to find that *two only* of them* contained an interdiction of standing armies in

* This statement of the matter is taken from the printed collections of state constitutions. Pennsylvania and North-Carolina, are the two which contain the interdiction in these words—"As
"standing armies in time of peace are dangerous to liberty, THEY
" OUGHT

in time of peace; that the other eleven had either observed a profound silence on the subject, or had in express terms admitted the right of the legislature to authorise their existence.

Still however he would be persuaded that there must be some plausible foundation for the cry raised on this head. He would never be able to imagine, while any source of information remained unexplored, that it was nothing more than an experiment upon the public credulity, dictated either by a deliberate intention to deceive or by the overflowings of a zeal too intemperate to be ingenuous. It would probably occur to him that he would be likely to find the precautions he was in search of in the primitive compact between the states. Here at length he would expect to meet with a solution of the enigma. No doubt he would observe to himself the existing confederation must contain the most explicit provisions against military establishments in time of peace; and a departure from this model in a favorite point has occasioned the discontent which appears to influence these political champions.

If he should now apply himself to a careful and critical survey of the articles of confederation, his astonishment would not only be increased but would acquire a mixture of indignation at the unexpected discovery that these articles instead of containing the prohibition he looked for, and though they had with jealous circumspection restricted the authority of the state

"ought not to be kept up." This is in truth rather a CAUTION than a PROHIBITION. New-Hampshire, Massachusetts, Delaware and Maryland, have in each of their bills of rights a clause to this effect—"Standing armies are dangerous to liberty, and ought not to be raised or kept up WITHOUT THE CONSENT OF THE LEGISLATURE;" which is a formal admission of the authority of the legislature. New-York has no bill of her rights, and her constitution says not a word about the matter. No bills of rights appear annexed to the constitutions of the other states except the foregoing, and their constitutions are equally silent. I am told, however, that one or two states have bills of rights, which do not appear in this collection; but that those also recognize the right of the legislative authority in this respect.

state legislatures in this particular, had not imposed a single restraint on that of the United States. If he happened to be a man of quick sensibility or ardent temper, he could now no longer refrain from pronouncing these clamours to be the dishonest artifices of a sinister and unprincipled opposition to a plan which ought at least to receive a fair and candid examination from all sincere lovers of their country! How else, he would say, could the authors of them have been tempted to vent such loud censures upon that plan, about a point in which it seems to have conformed itself to the general sense of America as declared in its different forms of government, and in which it has even superadded a new and powerful guard unknown to any of them? If on the contrary he happened to be a man of calm and dispassionate feelings—he would indulge a sigh for the frailty of human nature, and would lament that in a matter so interesting to the happiness of millions the true merits of the question should be perplexed and obscured by expedients so unfriendly to an impartial and right determination. Even such a man could hardly forbear remarking that a conduct of this kind has too much the appearance of an intention to mislead the people by alarming their passions rather than to convince them by arguments addressed to their understandings.

But however little this objection may be countenanced even by precedents among ourselves, it may be satisfactory to take a nearer view of its intrinsic merits. From a close examination it will appear, that restraints upon the discretion of the legislature in respect to military establishments would be improper to be imposed, and if imposed, from the necessities of society, would be unlikely to be observed.

Though a wide ocean separates the United States from Europe; yet there are various considerations that warn us against an excess of confidence or security. On one side of us and stretching far into our rear are growing settlements subject to the dominion

of Britain. On the other side and extending to meet the British settlements are colonies and establishments subject to the dominion of Spain. This situation and the vicinity of the West-India islands belonging to these two powers create between them, in respect to their American possessions, and in relation to us a common interest. The savage tribes on our Western frontier ought to be regarded as our natural enemies their natural allies; because they have most to fear from us and most to hope from them. The improvements in the art of navigation have, as to the facility of communication, rendered distant nations in a great measure neighbours. Britain and Spain are among the principal maritime powers of Europe. A future concert of views between these nations ought not to be regarded as improbable. The increasing remoteness of consanguinity is every day diminishing the force of the family compact between France and Spain. And politicians have ever with great reason considered the ties of blood as feeble and precarious links of political connection. These circumstances combined admonish us not to be too sanguine in considering ourselves as intirely out of the reach of danger.

Previous to the revolution, and ever since the peace, there has been a constant necessity for keeping small garrisons on our Western frontier. No person can doubt that these will continue to be indispensable, if it should only be against the ravages and depredations of the Indians. These garrisons must either be furnished, by occasional detachments from the militia, or by permanent corps in the pay of the government. The first is impracticable; and if practicable, would be pernicious. The militia would not long, if at all, submit to be dragged from their occupations and families to perform that most disagreeable duty in times of profound peace. And if they could be prevailed upon, or compelled to do it, the increased expence of a frequent rotation of service,

service, and the loss of labour and disconcertion of the industrious pursuits of individuals, would form conclusive objections to the scheme. It would be as burthensome and injurious to the public, as ruinous to private citizens. The latter resource of permanent corps in the pay of government amounts to a standing army in time of peace; a small one indeed, but not the less real for being small. Here is a simple view of the subject that shows us at once the impropriety of a constitutional interdiction of such establishments, and the necessity of leaving the matter to the discretion and prudence of the legislature.

In proportion to our increase in strength it is probable, nay it may be said certain, that Britain and Spain would augment their military establishments in our neighbourhood. If we should not be willing to be exposed in a naked and defenceless condition to their insults or encroachments, we should find it expedient to increase our frontier garrisons in some ratio to the force by which our Western settlements might be annoyed. There are and will be particular posts, the possession of which will include the command of large districts of territory and facilitate future invasions of the remainder. It may be added that some of those posts will be keys to the trade with the Indian nations. Can any man think it would be wise to leave such posts in a situation to be at any instant seized by one or the other of two neighbouring and formidable powers? To act this part, would be to desert all the usual maxims of prudence and policy.

If we mean to be a commercial people or even to be secure on our Atlantic side, we must endeavour as soon as possible to have a navy. To this purpose there must be dock-yards and arsenals; and, for the defence of these, fortifications and probably garrisons. When a nation has become so powerful by sea, that it can protect its dock-yards by its fleets, this supercedes the necessity of garrisons for that purpose;

purpose ; but where naval establishments are in their infancy, moderate garrisons will in all likelihood be found an indispensable security against descents for the destruction of the arsenals and dock-yards and sometimes of the fleet itself.

PUBLIUS.

N U M B E R X X V .

The Subject continued with the same View.

IT may perhaps be urged, that the objects enumerated in the preceding number ought to be provided for by the state governments, under the direction of the union. But this would be an inversion of the primary principle of our political association; as it would in practice transfer the care of the common defence from the federal head to the individual members: A project oppressive to some states, dangerous to all, and baneful to the confederacy.

The territories of Britain, Spain and of the Indian nations in our neighbourhood, do not border on particular states ; but incircle the union from MAINE to GEORGIA. The danger, though in different degrees, is therefore common. And the means of guarding against it ought in like manner to be the objects of common councils and of a common treasury. It happens that some states, from local situation, are more directly exposed. NEW-YORK is of this class. Upon the plan of separate provisions, New-York would have to sustain the whole weight of the establishments requisite to her immediate safety, and to the mediate or ultimate protection of her neighbours. This would neither be equitable as it respected New-York, nor safe as it respected the other states. Various inconveniencies would attend such a system. The states, to whose lot it might fall

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to support the necessary establishments, would be as little able as willing, for a considerable time to come, to bear the burthen of competent provisions. The security of all would thus be subjected to the parsimony, improvidence or inability of a part. If the resources of such part becoming more abundant, its provisions should be proportionally enlarged, the other states would quickly take the alarm at seeing the whole military force of the union in the hands of two or three of its members; and those probably amongst the most powerful. They would each choose to have some counterpoise; and pretences could easily be contrived. In this situation military establishments, nourished by mutual jealousy, would be apt to swell beyond their natural or proper size; and being at the separate disposal of the members, they would be engines for the abridgment, or demolition of the national authority.

Reasons have been already given to induce a supposition, that the state governments will too naturally be prone to a rivalry with that of the union, the foundation of which will be the love of power; and that in any contest between the federal head and one of its members, the people will be most apt to unite with their local government: If in addition to this immense advantage, the ambition of the members should be stimulated by the separate and independent possession of military forces, it would afford too strong a temptation, and too great facility to them to make enterprises upon, and finally to subvert the constitutional authority of the union. On the other hand, the liberty of the people would be less safe in this state of things, than in that which left the national forces in the hands of the national government. As far as an army may be considered as a dangerous weapon of power, it had better be in those hands, of which the people are most likely to be jealous, than in those of which they are least likely to be jealous. For it is a truth which the experience of all ages has

has attested, that the people are commonly most in danger, when the means of injuring their rights are in the possession of those of whom they entertain the least suspicion.

The framers of the existing confederation, fully aware of the danger to the union from the separate possession of military forces by the states, have in express terms, prohibited them from having either ships or troops, unless with the consent of congress. The truth is, that the existence of a federal government and military establishments, under state authority, are not less at variance with each other, than a due supply of the federal treasury and the system of quotas and requisitions.

There are other lights besides those already taken notice of, in which the impropriety of restraints on the discretion of the national legislature will be equally manifest. The design of the objection, which has been mentioned, is to preclude standing armies in time of peace; though we have never been informed how far it is desired the prohibition should extend; whether to raising armies as well as to *keeping them up* in a season of tranquility or not. If it be confined to the latter it will have no precise signification, and it will be ineffectual for the purpose intended. When armies are once raised, what shall be denominated "*keeping them up*," contrary to the sense of the constitution? What time shall be requisite to ascertain the violation? Shall it be a week, a month, or a year? Or shall we say, they may be continued as long as the danger which occasioned their being raised continues? This would be to admit that they might be kept up *in time of peace* against threatening, or impending danger; which would be at once to deviate from the literal meaning of the prohibition, and to introduce an extensive latitude of construction. Who shall judge of the continuance of the danger? This must undoubtedly be submitted to the national government, and the matter would then be brought

to this issue, that the national government, to provide against apprehended danger, might, in the first instance, raise troops, and might afterwards keep them on foot, as long as they supposed the peace or safety of the community was in any degree of jeopardy. It is easy to perceive, that a discretion so latitudinary as this, would afford ample room for eluding the force of the provision.

The supposed utility of a provision of this kind, must be founded upon a supposed probability, or at least possibility, of a combination between the executive and legislative in some scheme of usurpation. Should this at any time happen, how easy would it be to fabricate pretences of approaching danger? Indian hostilities instigated by Spain or Britain, would always be at hand. Provocations to produce the desired appearances, might even be given to some foreign power, and appeased again by timely concessions. If we can reasonably presume such a combination to have been formed, and that the enterprise is warranted by a sufficient prospect of success; the army when once raised, from whatever cause, or on whatever pretext, may be applied to the execution of the project.

If to obviate this consequence, it should be resolved to extend the prohibition to the *raising* of armies in time of peace, the United States would then exhibit the most extraordinary spectacle, which the world has yet seen—that of a nation incapacitated by its constitution to prepare for defence, before it was actually invaded. As the ceremony of a formal denunciation of war has of late fallen into disuse, the presence of an enemy within our territories must be waited for as the legal warrant to the government to begin its levies of men for the protection of the state. We must receive the blow before we could even prepare to return it. All that kind of policy by which nations anticipate distant danger, and meet the gathering storm, must be abstained from, as contrary to the
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genuine maxims of a free government. We must expose our property and liberty to the mercy of foreign invaders and invite them, by our weakness, to seize the naked and defenceless prey, because we are afraid that rulers, created by our choice—dependent on our will—might endanger that liberty, by an abuse of the means necessary to its preservation.

Here I expect we shall be told, that the militia of the country is its natural bulwark, and would be at all times equal to the national defence. This doctrine in substance had like to have lost us our independence. It cost millions to the United States that might have been saved. The facts, which from our own experience forbid a reliance of this kind, are too recent to permit us to be the dupes of such a suggestion. The steady operations of war against a regular and disciplined army, can only be successfully conducted by a force of the same kind. Considerations of economy, not less than of stability and vigor, confirm this position. The American militia, in the course of the late war, have by their valour on numerous occasions, erected eternal monuments to their fame; but the bravest of them feel and know, that the liberty of their country could not have been established by their efforts alone, however great and valuable they were. War, like most other things, is a science to be acquired and perfected by diligence, by perseverance, by time, and by practice.

All violent policy, contrary to the natural and experienced course of human affairs, defeats itself. Pennsylvania at this instant affords an example of the truth of this remark. The bill of rights of that state declares, that standing armies are dangerous to liberty, and ought not to be kept up in time of peace. Pennsylvania, nevertheless, in a time of profound peace, from the existence of partial disorders in one or two of her counties, has resolved to raise a body of troops; and in all probability, will keep them up as long as there is any appearance of danger to the public

public peace. The conduct of Massachusetts affords a lesson on the same subject, though on different ground. That state (without waiting for the sanction of congress as the articles of the confederation require) was compelled to raise troops, to quell a domestic insurrection, and still keeps a corps in pay to prevent a revival of the spirit of revolt. The particular constitution of Massachusetts opposed no obstacle to the measure; but the instance is still of use to instruct us, that cases are likely to occur under our governments, as well as under those of other nations, which will sometimes render a military force in time of peace essential to the security of the society, and that it is therefore improper, in this respect, to controul the legislative discretion. It also teaches us, in its application to the United States, how little the rights of a feeble government are likely to be respected, even by its own constituents. And it teaches us, in addition to the rest, how unequal are parchment provisions to a struggle with public necessity.

It was a fundamental maxim of the Lacedemonian commonwealth, that the post of admiral should not be conferred twice on the same person. The Peloponnesian confederates, having suffered a severe defeat at sea from the Athenians, demanded Lyfander who had before served with success in that capacity, to command the combined fleets. The Lacedemonians, to gratify their allies, and yet preserve the semblance of an adherence to their antient institutions had recourse to the flimsy subterfuge of investing Lyfander with the real power of admiral, under the nominal title of vice-admiral. This instance is selected from among a multitude that might be cited to confirm the truth already advanced and illustrated by domestic examples; which is, that nations pay little regard to rules and maxims calculated in their very nature to run counter to the necessities of society. Wise politicians will be cautious about fettering the government with restrictions, that cannot be observed; because

because they know that every breach of the fundamental laws, though dictated by necessity impairs that sacred reverence, which ought to be maintained in the breast of rulers towards the constitution of a country, and forms a precedent for other breaches, where the same plea of necessity does not exist at all, or is less urgent and palpable.

PUBLIUS.

N U M B E R XXVI.

The Subject continued with the same View.

IT was a thing hardly to be expected, that in a popular revolution the minds of men should stop, at that happy mean, which marks the salutary boundary between POWER and PRIVILEGE, and combines the energy of government with the security of private rights. A failure in this delicate and important point is the great source of the inconveniences we experience; and if we are not cautious to avoid a repetition of the error, in our future attempts to rectify and ameliorate our system we may travel from one chimerical project to another; we may try change after change: but we shall never be likely to make any material change for the better.

The idea of restraining the legislative authority, in the means of providing for the national defence, is one of those refinements, which owe their origin to a zeal for liberty more ardent than enlightened. We have seen however that it has not had thus far an extensive prevalence: That even in this country, where it has made its first appearance, Pennsylvania and North-Carolina are the only two states by which it has been in any degree patronised: And that all the others have refused to give it the least countenance; wisely judging that confidence must be placed some
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where; that the necessity of doing it is implied in the very act of delegating power; and that it is better to hazard the abuse of that confidence, than to embarrass the government and endanger the public safety, by impolitic restrictions on the legislative authority. The opponents of the proposed constitution combat in this respect the general decision of America; and instead of being taught by experience the propriety of correcting any extremes, into which we may have heretofore run, they appear disposed to conduct us into others still more dangerous and more extravagant. As if the tone of government had been found too high, or too rigid, the doctrines they teach are calculated to induce us to depress, or to relax it, by expedients which upon other occasions have been condemned or forborn. It may be affirmed without the imputation of invective, that if the principles they inculcate on various points could so far obtain as to become the popular creed, they would utterly unfit the people of this country for any species of government whatever. But a danger of this kind is not to be apprehended. The citizens of America have too much discernment to be argued into anarchy. And I am much mistaken if experience has not wrought a deep and solemn conviction in the public mind, that greater energy of government is essential to the welfare and prosperity of the community.

It may not be amiss in this place concisely to remark the origin and progress of the idea which aims at the exclusion of military establishments in time of peace. Though in speculative minds it may arise from a contemplation of the nature and tendency of such institutions fortified by the events that have happened in other ages and countries; yet as a national sentiment it must be traced to those habits of thinking which we derive from the nation from whom the inhabitants of these states have in general sprung.

In England for a long time after the Norman conquest, the authority of the monarch was almost unlimited.

mitted. Inroads were gradually made upon the prerogative, in favour of liberty, first by the barons and afterwards by the people, till the greatest part of its most formidable pretensions became extinct. But it was not till the revolution in 1688, which elevated the prince of Orange to the throne of Great Britain, that English liberty was completely triumphant. As incident to the undefined power of making war, an acknowledged prerogative of the crown, Charles II. had by his own authority kept on foot in time of peace a body of 5,000 regular troops. And this number James II. increased to 30,000; which were paid out of his civil list. At the revolution, to abolish the exercise of so dangerous an authority, it became an article of the bill of rights then framed, that "raising or keeping a standing army within the kingdom in time of peace, *unless with the consent of parliament*, was against law."

In that kingdom, when the pulse of liberty was at its highest pitch, no security against the danger of standing armies was thought requisite, beyond a prohibition of their being raised or kept up by the mere authority of the executive magistrate. The patriots, who effected that memorable revolution, were too temperate and too well informed, to think of any restraint on the legislative discretion. They were aware that a certain number of troops for guards and garrisons were indispensable, that no precise bounds could be set to the national exigencies; that a power equal to every possible contingency must exist somewhere in the government; and that when they referred the exercise of that power to the judgement of the legislature, they had arrived at the ultimate point of precaution, which was reconcileable with the safety of the community.

From the same source, the people of America may be said to have derived a hereditary impression of danger to liberty from standing armies in time of peace. The circumstances of a revolution quickened the

the public sensibility on every point connected with the security of popular rights ; and in some instances raised the warmth of our zeal beyond the degree which consisted with the due temperature of the body politic. The attempts of two of the states to restrict the authority of the legislature in the article of military establishments are of the number of these instances. The principles, which had taught us to be jealous of the power of a hereditary monarch, were by an injudicious excess extended to the representatives of the people in their popular assemblies. Even in some of the states, where this error was not adopted, we find unnecessary declarations, that standing armies ought not to be kept up, in time of peace, *without the consent of the legislature* ;—I call them unnecessary, because the reason, which had introduced a similar provision into the English bill of rights, is not applicable to any of the state constitutions. The power of raising armies at all, under those constitutions, can by no construction be deemed to reside any where else, than in the legislatures themselves ; and it was superfluous, if not absurd, to declare that a matter should not be done without the consent of a body, which alone had the power of doing it. Accordingly in some of those constitutions, and among others in that of the state of New-York ; which has been justly celebrated both in Europe and in America as one of the best of the forms of government established in this country, there is a total silence upon the subject.

It is remarkable, that even in the two states, which seem to have meditated an interdiction of military establishments in time of peace, the mode of expression made use of is rather monitory than prohibitory. It is not said, that standing armies *shall not be kept up*, but that they *ought not to be kept up* in time of peace. This ambiguity of terms appears to have been the result of a conflict between jealousy and conviction, between the desire of excluding such establishments

at all events, and the persuasion that an absolute exclusion would be unwise and unsafe.

Can it be doubted that such a provision, whenever the situation of public affairs was understood to require a departure from it, would be interpreted by the legislature into a mere admonition, and would be made to yield to the necessities or supposed necessities of the state? Let the fact already mentioned with respect to Pennsylvania decide. What then (it may be asked) is the use of such a provision, if it cease to operate the moment there is an inclination to disregard it?

Let us examine whether there be any comparison, in point of efficacy, between the provision alluded to, and that which is contained in the new constitution, for restraining the appropriations of money for military purposes to the period of two years. The former by aiming at too much, is calculated to effect nothing; the latter, by steering clear of an imprudent extreme, and by being perfectly compatible with a proper provision for the exigencies of the nation, will have a salutary and powerful operation.

The legislature of the United States will be *obliged* by this provision, once at least in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the point; and to declare their sense of the matter, by a formal vote in the face of their constituents. They are not *at liberty* to vest in the executive department permanent funds for the support of an army; if they were even incautious enough to be willing to repose in it so improper a confidence. As the spirit of party, in different degrees, must be expected to infect all political bodies, there will be no doubt persons in the national legislature willing enough to arraign the measures and criminate the views of the majority. The provision for the support of a military force will always be a favourable topic for declamation. As often as the question comes forward, the public attention will be roused and attracted to the subject, by the

the party in opposition : And if the majority should be really disposed to exceed the proper limits, the community will be warned of the danger, and will have an opportunity of taking measures to guard against it. Independent of parties in the national legislature itself, as often as the period of discussion arrived, the state legislatures, who will always be not only vigilant, but suspicious and jealous guardians of the rights of the citizens, against incroachments from the federal government, will constantly have their attention awake to the conduct of the national rulers, and will be ready enough, if any thing improper appears, to sound the alarm to the people, and not only to be the voice, but, if necessary, the arm of their discontent.

Schemes to subvert the liberties of a great community *require time to* mature them for execution. An army so large as seriously to menace those liberties, could only be formed by progressive augmentations; which would suppose not merely a temporary combination between the legislature and executive, but a continued conspiracy for a series of time. Is it probable that such a combination would exist at all? Is it probable that it would be persevered in, and transmitted along, through all the successive variations in the representative body, which biennial elections would naturally produce in both houses? Is it presumable, that every man, the instant he took his seat in the national senate, or house of representatives, would commence a traitor to his constituents, and to his country? Can it be supposed, that there would not be found one man discerning enough to detect so atrocious a conspiracy, or bold or honest enough to apprise his constituents of their danger? If such presumptions can fairly be made, there ought to be at once an end of all delegated authority. The people should resolve to recall all the powers they have heretofore parted with out of their own hands; and to divide themselves into as many states as there are counties

counties in order that they may be able to manage their own concerns in person.

If such suppositions could even be reasonably made, still the concealment of the design, for any duration, would be impracticable. It would be announced by the very circumstance of augmenting the army to so great an extent in time of profound peace. What colorable reason could be assigned in a country so situated, for such vast augmentations of the military force? It is impossible that the people could be long deceived; and the destruction of the project and of the projectors would quickly follow the discovery.

It has been said that the provision, which limits the appropriation of money for the support of an army to the period of two years, would be unavailing; because the executive, when once possessed of a force large enough to awe the people into submission, would find resources in that very force sufficient to enable him to dispense with supplies from the votes of the legislature. But the question again recurs: Upon what pretence could he be put in possession of a force of that magnitude in time of peace? If we suppose it to have been created in consequence of some domestic insurrection or foreign war, then it becomes a case not within the principle of the objection; for this is levelled against the power of keeping up troops in time of peace. Few persons will be so visionary as seriously to contend that military forces ought not to be raised to quell a rebellion, or resist an invasion; and if the defence of the community, under such circumstances, should make it necessary to have an army, so numerous as to hazard its liberty, this is one of those calamities for which there is neither preventative nor cure. It cannot be provided against by any possible form of government: It might even result from a simple league offensive and defensive; if it should ever be necessary for the confederates or allies to form an army for common defence.

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But it is an evil infinitely less likely to attend us in an united than in an disunited state; nay it may be safely asserted that it is an evil altogether unlikely to attend us in the latter situation. It is not easy to conceive a possibility, that dangers so formidable can assail the whole union, as to demand a force considerable enough to place our liberties in the least jeopardy; especially if we take into view the aid to be derived from the militia, which ought always to be counted upon as a valuable and powerful auxiliary. But in a state of disunion (as has been fully shewn in another place) the contrary of this supposition would become not only probable, but almost unavoidable.

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NUMBER XXVII.

The Subject continued with the same View

IT has been urged in different shapes that a constitution of the kind proposed by the convention cannot operate without the aid of a military force to execute its laws. This however like most other things that have been alledged on that side, rests on mere general assertion; unsupported by any precise or intelligible designation of the reasons upon which it is founded. As far as I have been able to divine the latent meaning of the objectors, it seems to originate in a pre-supposition that the people will be disinclined to the exercise of federal authority in any matter of an internal nature. Waving any exception that might be taken to the inaccuracy or inexplicitness of the distinction between internal and external let us inquire what ground there is to presuppose the disinclination in the people. Unless we presume at the same time, that the powers of the general government will be worse administered than those of

the state governments, there seems to be no room for the presumption of ill-will, disaffection or opposition in the people. I believe it may be laid down as a general rule, that their confidence in and obedience to a government, will commonly be proportioned to the goodness or badness of its administration. It must be admitted that there are exceptions to this rule; but these exceptions depend so entirely on accidental causes, that they cannot be considered as having any relation to the intrinsic merits or demerits of a constitution. These can only be judged of by general principles and maxims.

Various reasons have been suggested in the course of these papers, to induce a probability that the general government will be better administered than the particular governments; the principal of which are that the extension of the spheres of election will present a greater option, or latitude of choice to the people, that through the medium of the state legislatures, who are select bodies of men, and who are to appoint the members of the national senate—there is reason to expect that this branch will generally be composed with peculiar care and judgment: That these circumstances promise greater knowledge and more comprehensive information in the national councils: And that on account of the extent of the country from which those, to whose direction they will be committed, will be drawn, they will be less apt to be tainted by the spirit of faction, and more out of the reach of those occasional ill humours or temporary prejudices and propensities, which in smaller societies frequently contaminate the public deliberations, beget injustice and oppression of a part of the community, and engender schemes, which though they gratify a momentary inclination or desire, terminate in general distress, dissatisfaction and disgust. Several additional reasons of considerable force, to fortify that probability, will occur when we come to survey with a more critic eye, the interior structure of the edifice

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which we are invited to erect. It will be sufficient here to remark, that until satisfactory reasons can be assigned to justify an opinion, that the federal government is likely to be administered in such a manner as to render it odious or contemptible to the people, there can be no reasonable foundation for the supposition, that the laws of the union will meet with any greater obstruction from them, or will stand in need of any other methods to enforce their execution, than the laws of the particular members.

The hope of impunity is a strong incitement to sedition—the dread of punishment a proportionately strong discouragement to it—will not the government of the union, which, if possessed of a due degree of power, can call to its aid the collective resources of the whole confederacy, be more likely to repress the *former* sentiment, and to inspire the *latter*, than that of a single state, which can only command the resources within itself? A turbulent faction in a state may easily suppose itself able to contend with the friends to the government in that state, but it can hardly be so infatuated as to imagine itself a match for the combined efforts of the union. If this reflection be just, there is less danger of resistance from irregular combinations of individuals, to the authority of the confederacy, than to that of a single member.

I will in this place hazard an observation which will not be the less just because to some it may appear new; which is, that the more the operations of the national authority are intermingled in the ordinary exercise of government; the more the citizens are accustomed to meet with it in the common occurrences of their political life; the more it is familiarised to their sight and to their feelings; the further it enters into those objects which touch the most sensible cords, and put in motion the most active springs of the human heart; the greater will be the probability that it will conciliate the respect and attachment of the community. Man is very much a creature of habit. A
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thing that rarely strikes his senses will generally have but a transient influence upon his mind. A government continually at a distance and out of sight, can hardly be expected to interest the sensations of the people. The inference is, that the authority of the union, and the affections of the citizens towards it, will be strengthened rather than weakened by its extension to what are called matters of internal concern; and that it will have less occasion to recur to force in proportion to the familiarity and comprehensiveness of its agency. The more it circulates through those channels and currents, in which the passions of mankind naturally flow, the less will it require the aid of the violent and perilous expedients of compulsion.

One thing at all events, must be evident, that a government like that proposed, would bid much rather to avoid the necessity of using force, than the species of league contended for by most of its opponents; the authority of which should only operate upon the states in their political or collective capacities. It has been shewn, that in such a confederacy, there can be no sanction for the laws but force; that frequent delinquencies in the members, are the natural offspring of the very frame of the government; and that as often as these happen they can only be redressed, if at all, by war and violence.

The plan reported by the convention, by extending the authority of the federal head to the individual citizens of the several states, will enable the government to employ the ordinary magistracy of each in the execution of its laws. It is easy to perceive that this will tend to destroy, in the common apprehension, all distinction between the sources from which they might proceed; and will give the federal government the same advantage for securing a due obedience to its authority, which is enjoyed by the government of each state; in addition to the influence on public opinion, which will result from the important consideration of its having power to call to its assistance
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and support the resources of the whole Union. It merits particular attention in this place, that the laws of the confederacy, as to the *enumerated* and *legitimate* objects of its jurisdiction, will become the SUPREME LAW of the land; to the observance of which, all officers legislative, executive and judicial in each state, will be bound by the sanctity of an oath. Thus the legislatures, courts and magistrates of the respective members will be incorporated into the operations of the national government; *as far as its just and constitutional authority extends*; and will be rendered auxiliary to the enforcement of its laws.* Any man, who will pursue by his own reflections the consequences of this situation, will perceive that there is good ground to calculate upon a regular and peaceable execution of the laws of the union; if its powers are administered with a common share of prudence. If we will arbitrarily suppose the contrary, we may deduce any inferences we please from the supposition; for it is certainly possible, by an injudicious exercise of the authorities of the best government that ever was or ever can be instituted, to provoke and precipitate the people into the wildest excesses. But though the adversaries of the proposed constitution should presume that the national rulers would be insensible to the motives of public good, or to the obligations of duty; I would still ask them, how the interests of ambition, or the views of encroachment, can be promoted by such a conduct?

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* The sophistry which has been employed to show that this will tend to the destruction of the state governments will, in its proper place, be fully detected.

NUMBER

NUMBER XXVIII.

The same Subject continued.

THAT there may happen cases, in which the national government may be necessitated to resort to force, cannot be denied. Our own experience has corroborated the lessons taught by the examples of other nations; that emergencies of this sort will sometimes exist in all societies, however constituted; that seditions and insurrections are unhappily maladies as inseparable from the body politic, as tumours and eruptions from the natural body; that the idea of governing at all times by the simple force of law (which we have been told is the only admissible principle of republican government) has no place but in the reveries of those political doctors, whose sagacity disdains the admonitions of experimental instruction.

Should such emergencies at any time happen under the national government, there could be no remedy but force. The means to be employed must be proportioned to the extent of the mischief. If it should be a slight commotion in a small part of a state, the militia of the residue would be adequate to its suppression: and the natural presumption is, that they would be ready to do their duty. An insurrection, whatever may be its immediate cause, eventually endangers all government: Regard to the public peace, if not to the rights of the union, would engage the citizens, to whom the contagion had not communicated itself, to oppose the insurgents: And if the general government should be found in practice conducive to the prosperity and felicity of the people, it were irrational to believe that they would be disinclined to its support.

If on the contrary the insurrection should pervade a whole state, or a principal part of it, the employment of a different kind of force might become unavoidable.

unavoidable. It appears that Massachusetts found it necessary to raise troops for suppressing the disorders within that state; that Pennsylvania, from the mere apprehension of commotions among a part of her citizens, has thought proper to have recourse to the same measure. Suppose the state of New-York had been inclined to re-establish her lost jurisdiction over the inhabitants of Vermont; could she have hoped for success in such an enterprise from the efforts of the militia alone? Would she not have been compelled to raise and to maintain a more regular force for the execution of her design? If it must then be admitted that the necessity of recurring to a force different from the militia in cases of this extraordinary nature, is applicable to the state governments themselves, why should the possibility that the national government might be under a like necessity in similar extremities, be made an objection to its existence? Is it not surprising that men, who declare an attachment to the union in the abstract, should urge, as an objection to the proposed constitution, what applies with ten-fold weight to the plan for which they contend; and what as far as it has any foundation in truth, is an inevitable consequence of civil society upon an enlarged scale? who would not prefer that possibility to the unceasing agitations and frequent revolutions which are the continual scourges of petty republics?

Let us pursue this examination in another light. Suppose, in lieu of one general system, two or three, or even four confederacies were to be formed, would not the same difficulty oppose itself to the operations of either of these confederacies? Would not each of them be exposed to the same casualties; and, when these happened, be obliged to have recourse to the same expedients for upholding its authority, which are objected to a government for all the states? Would the militia in this supposition be more ready or more able to support the federal authority than in the case of a general union? All candid and intelligent men

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must upon due consideration acknowledge that the principle of the objection is equally applicable to either of the two cases; and that whether we have one government for all the states, or different governments for different parcels of them, or as many unconnected governments as there are states, there might sometimes be a necessity to make use of a force constituted differently from the militia to preserve the peace of the community, and to maintain the just authority of the laws against those violent invasions of them, which amount to insurrections and rebellions.

Independent of all other reasonings upon the subject, it is a full answer to those who require a more peremptory provision against military establishments in time of peace, to say that the whole power of the proposed government is to be in the hands of the representatives of the people. This is the essential, and after all the only efficacious security for the rights and privileges of the people which is attainable in civil society.*

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defence, which is paramount to all positive forms of government; and which, against the usurpations of the national rulers, may be exerted with infinitely better prospect of success, than against those of the rulers of an individual state. In a single state, if the persons entrusted with supreme power become usurpers, the different parcels, subdivisions or districts, of which it consists, having no distinct government in each, can take no regular measures for defence. The citizens must rush tumultuously to arms, without concert, without system, without resource; except in their courage and despair. The usurpers, clothed with the forms of legal authority, can too often crush the opposition in embryo. The smaller the extent of territory, the more difficult will it be for the people to form a regular or systematic plan

* Its full efficacy will be examined hereafter.

plan of opposition; and the more easy will it be to defeat their early efforts. Intelligence can be more speedily obtained of their preparations and movements; and the military force in the possession of the usurpers, can be more rapidly directed against the part where the opposition has begun. In this situation, there must be a peculiar coincidence of circumstances to ensure success to the popular resistance.

The obstacles to usurpation, and the facilities of resistance increase with the increased extent of the state; provided the citizens understand their rights and are disposed to defend them. The natural strength of the people in a large community, in proportion to the artificial strength of the government, is greater than in a small; and of course more competent to a struggle with the attempts of the government to establish a tyranny. But in a confederacy, the people, without exaggeration, may be said to be entirely the masters of their own fate. Power being almost always the rival of power; the general government will at all times stand ready to check the usurpations of the state governments; and these will have the same disposition towards the general government. The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other, as the instrument of redress. How wise will it be in them by cherishing the union to preserve to themselves an advantage which can never be too highly prized!

It may safely be received as an axiom in our political system, that the state governments will in all possible contingencies afford complete security against invasions of the public liberty by the national authority. Projects of usurpation cannot be masked under pretences so likely to escape the penetration of select bodies of men as of the people at large. The legislatures will have better means of information. They can discover the danger at a distance; and possessing all the organs of civil power, and the confidence of

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the people, they can at once adopt a regular plan of opposition, in which they can combine all the resources of the community. They can readily communicate with each other in the different states; and unite their common forces for the protection of their common liberty.

The great extent of the country is a further security. We have already experienced its utility against the attacks of a foreign power. And it would have precisely the same effect against the enterprises of ambitious rulers in the national councils. If the federal army should be able to quell the resistance of one state, the distant states would be able to make head with fresh forces. The advantages obtained in one place must be abandoned to subdue the opposition in others; and the moment the part which had been reduced to submission was left to itself its efforts would be renewed and its resistance revive.

We should recollect that the extent of the military force must at all events be regulated by the resources of the country. For a long time to come, it will not be possible to maintain a large army; and as the means of doing this increase, the population and natural strength of the community will proportionably increase. When will the time arrive, that the federal government can raise and maintain an army capable of erecting a despotism over the great body of the people of an immense empire; who are in a situation, through the medium of their state governments, to take measures for their own defence with all the celerity, regularity and system of independent nations? The apprehension may be considered as a disease, for which there can be found no cure in the resources of argument and reasoning.

PUBLIUS.

NUMBER

NUMBER XXIX.

Concerning the Militia.

THE power of regulating the militia, and of commanding its services in times of insurrection and invasion, are natural incidents to the duties of superintending the common defence, and of watching over the internal peace of the confederacy.

It requires no skill in the science of war to discern that uniformity in the organization and discipline of the militia would be attended with the most beneficial effects, whenever they were called into service for the public defence. It would enable them to discharge the duties of the camp and of the field with mutual intelligence and concert; an advantage of peculiar moment in the operations of an army: And it would fit them much sooner to acquire the degree of proficiency in military functions, which would be essential to their usefulness. This desirable uniformity can only be accomplished by confiding the regulation of the militia to the direction of the national authority. It is therefore with the most evident propriety that the plan of the convention proposes to empower the union “to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.”

Of the different grounds which have been taken in opposition to this plan, there is none that was so little to have been expected, or is so untenable in itself, as the one from which this particular provision has been attacked. If a well regulated militia be the most natural defence of a free country, it ought certainly to be under the regulation and at the disposal of that body which is constituted the guardian of the national security.

security. If standing armies are dangerous to liberty, an efficacious power over the militia, in the same body, ought as far as possible to take away the inducement and the pretext to such unfriendly institutions. If the federal government can command the aid of the militia in those emergencies which call for the military arm in support of the civil magistrate, it can the better dispense with the employment of a different kind of force. If it cannot avail itself of the former, it will be obliged to recur to the latter. To render an army unnecessary will be a more certain method of preventing its existence than a thousand prohibitions upon paper.

In order to cast an odium upon the power of calling forth the militia to execute the laws of the union, it has been remarked that there is no where any provision in the proposed constitution for requiring the aid of the *POSSE COMITATUS* to assist the magistrate in the execution of his duty; whence it has been inferred that military force was intended to be his only auxiliary. There is a striking incoherence in the objections which have appeared, and sometimes even from the same quarter, not much calculated to inspire a very favourable opinion of the sincerity or fair dealing of their authors. The same persons who tell us in one breath that the powers of the federal government will be despotic and unlimited, inform us in the next that it has not authority sufficient even to call out the *POSSE COMITATUS*. The latter fortunately is as much short of the truth as the former exceeds it. It would be as absurd to doubt that a right to pass all laws *necessary and proper* to execute its declared powers would include that of requiring the assistance of the citizens to the officers who may be entrusted with the execution of those laws; as it would be to believe that a right to enact laws *necessary and proper* for the imposition and collection of taxes would involve that of varying the rules of descent and of the alienation of landed property, or of abolishing the trial by jury

jury in cases relating to it. It being therefore evident that the supposition of a want of power to require the aid of the POSSE COMITATUS is entirely destitute of colour, it will follow that the conclusion which has been drawn from it, in its application to the authority of the federal government over the militia, is as uncandid as it is illogical. What reason could there be to infer that force was intended to be the sole instrument of authority, merely because there is a power to make use of it when necessary? What shall we think of the motives which could induce men of sense to reason in this extraordinary manner? How shall we prevent a conflict between charity and conviction?

By a curious refinement upon the spirit of republican jealousy, we are even taught to apprehend danger from the militia itself in the hands of the federal government. It is observed that select corps may be formed, composed of the young and the ardent, who may be rendered subservient to the views of arbitrary power. What plan for the regulation of the militia may be pursued by the national government is impossible to be foreseen. But so far from viewing the matter in the same light with those who object to select corps as dangerous, were the constitution ratified, and were I to deliver my sentiments to a member of the federal legislature on the subject of a militia establishment, I should hold to him in substance the following discourse:—

“ The project of disciplining all the militia of the United States, is as futile as it would be injurious, if it were capable of being carried into execution. A tolerable expertness in military movements is a business that requires time and practice. It is not a day, nor a week, nor even a month that will suffice for the attainment of it. To oblige the great body of the yeomanry and of the other classes of the citizens, to be under arms for the purpose of going through military exercises and evolutions

" as often as might be necessary, to acquire the degree
" of perfection which would intitle them to the cha-
" racter of a well regulated militia, would be a real
" grievance to the people, and a serious public incon-
" venience and loss. It would form an annual deduc-
" tion from the productive labour of the country to
" an amount which, calculating upon the present
" numbers of the people, would not fall far short of a
" million of pounds. To attempt a thing which
" would abridge the mass of labour and industry to
" so considerable an extent would be unwise; and
" the experiment, if made, could not succeed, because
" it would not long be endured. Little more can
" reasonably be aimed at with respect to the people
" at large, than to have them properly armed and
" equipped; and in order to see that this be not
" neglected, it will be necessary to assemble them
" once or twice in the course of a year.

" But though the scheme of disciplining the whole
" nation must be abandoned as mischievous or
" impracticable; yet it is a matter of the utmost
" importance that a well digested plan should as soon
" as possible be adopted for the proper establishment
" of the militia. The attention of the government
" ought particularly to be directed to the formation
" of a select corps of moderate size, upon such prin-
" ciples as will really fit it for service in case of need.
" By thus circumscribing the plan, it will be possible
" to have an excellent body of well trained militia,
" ready to take the field whenever the defence of the
" state shall require it. This will not only lessen the
" call for military establishments; but if circum-
" stances should at any time oblige the government
" to form an army of any magnitude, that army can
" never be formidable to the liberties of the people,
" while there is a large body of citizens, little if at
" all inferior to them in discipline and the use of
" arms, who stand ready to defend their own rights
" and those of their fellow citizens. This appears to
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“ me the only substitute that can be devised for a
 “ standing army ; and the best possible security against
 “ it if it should exist.”

Thus differently from the adversaries of the proposed constitution should I reason on the same subject; deducing arguments of safety from the very sources which they represent as fraught with danger and perdition. But how the national legislature may reason on the point, is a thing which neither they nor I can foresee.

There is something so far fetched and so extravagant in the idea of danger to liberty from the militia, that one is at a loss whether to treat it with gravity or with raillery; whether to consider it as a mere trial of skill, like the paradoxes of rhetoricians, as a disingenuous artifice to instil prejudices at any price, or as the serious offspring of political fanaticism. Where in the name of common sense are our fears to end if we may not trust our sons, our brothers, our neighbours, our fellow citizens? What shadow of danger can there be from men who are daily mingling with the rest of their countrymen; and who participate with them in the same feelings, sentiments, habits and interests? What reasonable cause of apprehension can be inferred from a power in the union to prescribe regulations for the militia and to command its services when necessary; while the particular states are to have the *sole and exclusive appointment of the officers*? If it were possible seriously to indulge a jealousy of the militia upon any conceivable establishment under the federal government, the circumstance of the officers being in the appointment of the states ought at once to extinguish it. There can be no doubt that this circumstance will always secure to them a preponderating influence over the militia.

In reading many of the publications against the constitution, a man is apt to imagine that he is perusing some ill written tale or romance; which instead
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of natural and agreeable images exhibits to the mind nothing but frightful and distorted shapes—

“Gorgons, Hydras and Chimeras dire”

—discoloring and disfiguring whatever it represents, and transforming every thing it touches into a monster.

A sample of this is to be observed in the exaggerated and improbable suggestions which have taken place respecting the power of calling for the services of the militia. That of New-Hampshire is to be marched to Georgia, of Georgia to New-Hampshire, of New-York to Kentuke and of Kentuke to Lake Champlain. Nay the debts due to the French and Dutch are to be paid in militia-men instead of Louis d'ors and ducats. At one moment there is to be a large army to lay prostrate the liberties of the people; at another moment the militia of Virginia are to be dragged from their homes five or six hundred miles to tame the republican contumacy of Massachusetts; and that of Massachusetts is to be transported an equal distance to subdue the refractory haughtiness of the aristocratic Virginians. Do the persons, who rave at this rate, imagine, that their art or their eloquence can impose any conceits or absurdities upon the people of America for infallible truths?

If there should be an army to be made use of as the engine of despotism what need of the militia? If there should be no army, whither would the militia, irritated at being required to undertake a distant and distressing expedition for the purpose of rivetting the chains of slavery upon a part of their countrymen direct their course, but to the seat of the tyrants, who had meditated so foolish as well as so wicked a project to crush them in their imagined intrenchments of power and to make them an example of the just vengeance of an abused and incensed people? Is this the way in which usurpers stride to dominion over a numerous and enlightened nation? Do they begin by exciting the detestation of the very instru-

ments of their intended usurpations? Do they usually commence their career by wanton and disgusting acts of power calculated to answer no end, but to draw upon themselves universal hatred and execration? Are suppositions of this sort the sober admonitions of discerning patriots to a discerning people? Or are they the inflammatory ravings of chagrined incendiaries or distempered enthusiasts? If we were even to suppose the national rulers actuated by the most ungovernable ambition, it is impossible to believe that they would employ such preposterous means to accomplish their designs.

In times of insurrection or invasion it would be natural and proper that the militia of a neighbouring state should be marched into another to resist a common enemy or to guard the republic against the violences of faction or sedition. This was frequently the case in respect to the first object in the course of the late war; and this mutual succour is indeed a principal end of our political association. If the power of affording it be placed under the direction of the union, there will be no danger of a supine and listless inattention to the dangers of a neighbour, till its near approach had superadded the incitements of self preservation to the too feeble impulses of duty and sympathy.

PUBLIUS.

NUMBER XXX.

Concerning Taxation.

IT has been already observed, that the federal government ought to possess the power of providing for the support of the national forces; in which proposition was intended to be included the expence of raising troops of building and equipping fleets, and all other expences in any wise connected with military

military arrangements and operations. But these are not the only objects to which the jurisdiction of the union, in respect to revenue, must necessarily be empowered to extend—It must embrace a provision for the support of the national civil list—for the payment of the national debts contracted, or that may be contracted—and in general for all those matters which will call for disbursements out of the national treasury. The conclusion is, that there must be interwoven in the frame of the government, a general power of taxation in one shape or another.

Money is with propriety considered as the vital principle of the body politic; as that which sustains its life and motion, and enables it to perform its most essential functions. A complete power therefore to procure a regular and adequate supply of revenue, as far as the resources of the community will permit, may be regarded as an indispensable ingredient in every constitution. From a deficiency in this particular, one of two evils must ensue; either the people must be subjected to continual plunder as a substitute for a more eligible mode of supplying the public wants, or the government must sink into a fatal atrophy, and in a short course of time perish.

In the Ottoman or Turkish empire, the sovereign, though in other respects absolute master of the lives and fortunes of his subjects, has no right to impose a new tax. The consequence is, that he permits the bashaws or governors of provinces to pillage the people at discretion; and in turn squeezes out of them the sums of which he stands in need to satisfy his own exigencies and those of the state. In America, from a like cause, the government of the union has gradually dwindled into a state of decay, approaching nearly to annihilation. Who can doubt that the happiness of the people in both countries would be promoted by competent authorities in the proper hands, to provide the revenues which the necessities of the public might require?

The present confederation, feeble as it is, intended to repose in the United States, an unlimited power of providing for the pecuniary wants of the union. But proceeding upon an erroneous principle, it has been done in such a manner as entirely to have frustrated the intention. Congress by the articles which compose that compact (as has been already stated) are authorised to ascertain and call for any sums of money necessary, in their judgement, to the service of the United States; and their requisitions, if conformable to the rule of apportionment, are in every constitutional sense obligatory upon the states. These have no right to question the propriety of the demand, no discretion beyond that of devising the ways and means of furnishing the sums demanded. But though this be strictly and truly the case; though the assumption of such a right would be an infringement of the articles of union; though it may seldom or never have been avowedly claimed; yet in practice it has been constantly exercised; and would continue to be so, as long as the revenues of the confederacy should remain dependent on the intermediate agency of its members. What the consequences of this system have been, is within the knowledge of every man, the least conversant in our public affairs, and has been abundantly unfolded in different parts of these inquiries. It is this which has chiefly contributed to reduce us to a situation which affords ample cause, of mortification to ourselves, and of triumph to our enemies.

What remedy can there be for this situation, but in a change of the system, which has produced it? in a change of the fallacious and delusive system of quotas and requisitions? What substitute can there be imagined for this *ignis fatuus* in finance, but that of permitting the national government to raise its own revenues by the ordinary methods of taxation, authorised in every well ordered constitution of civil government? Ingenious men may declaim with plausibility on any subject; but no human ingenuity

ingenuity can point out any other expedient to rescue us from the inconveniences and embarrassments, naturally resulting from defective supplies of the public treasury.

The more intelligent adversaries of the new constitution admit the force of this reasoning; but they qualify their admission by a distinction between what they call *internal* and *external* taxation. The former they would reserve to the state governments; the latter, which they explain into commercial imposts, or rather duties on imported articles, they declare themselves willing to concede to the federal head. This distinction, however, would violate that fundamental maxim of good sense and sound policy, which dictates that every power ought to be proportionate to its object; and would still leave the general government in a kind of tutelage to the state governments, inconsistent with every idea of vigor or efficiency. Who can pretend that commercial imposts are or would be alone equal to the present and future exigencies of the union? Taking into the account the existing debt, foreign and domestic, upon any plan of extinguishment, which a man moderately impressed with the importance of public justice and public credit could approve, in addition to the establishments, which all parties will acknowledge to be necessary, we could not reasonably flatter ourselves, that this resource alone, upon the most improved scale, would even suffice for its present necessities. Its future necessities admit not of calculation or limitation; and upon the principle, more than once adverted to, the power of making provision for them as they arise, ought to be equally unconfined. I believe it may be regarded as a position, warranted by the history of mankind, that *in the usual progress of things the necessities of a nation in every stage of its existence will be found at least equal to its resources.*

To say that deficiencies may be provided for by requisitions upon the states, is on the one hand to acknowledge

acknowledge that this system cannot be depended upon; and on the other hand, to depend upon it for every thing beyond a certain limit. Those who have carefully attended to its vices and deformities as they have been exhibited by experience, or delineated in the course of these papers, must feel an invincible repugnancy to trusting the national interests, in any degree, to its operation. Its inevitable tendency, whenever it is brought into activity, must be to enfeeble the union, and sow the seeds of discord and contention between the federal head and its members, and between the members themselves. Can it be expected that the deficiencies would be better supplied in this mode, than the total wants of the union have heretofore been supplied, in the same mode? It ought to be recollected, that if less will be required from the states, they will have proportionably less means to answer the demand. If the opinions of those who contend for the distinction which has been mentioned, were to be received as evidence of truth, one would be led to conclude that there was some known point in the economy of national affairs, at which it would be safe to stop, and to say—Thus far the ends of public happiness will be promoted by supplying the wants of government, and all beyond this is unworthy of our care or anxiety.—How is it possible that a government half supplied and always necessitous, can fulfil the purposes of its institution—can provide for the security—advance the prosperity—or support the reputation of the commonwealth? How can it ever possess either energy or stability, dignity or credit, confidence at home or respectability abroad? How can its administration be any thing else than a succession of expedients temporising, impotent, disgraceful? How will it be able to avoid a frequent sacrifice of its engagements to immediate necessity? How can it undertake or execute any liberal or enlarged plans of public good?

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Let us attend to what would be the effects of this situation in the very first war in which we should happen to be engaged. We will presume, for argument sake, that the revenue arising from the import duties answers the purposes of a provision for the public debt, and of a peace establishment for the union. Thus circumstanced, a war breaks out. What would be the probable conduct of the government in such an emergency? Taught by experience that proper dependence could not be placed on the success of requisitions; unable by its own authority to lay hold of fresh resources, and urged by considerations of national danger, would it not be driven to the expedient of diverting the funds already appropriated from their proper objects to the defence of the state? It is not easy to see how a step of this kind could be avoided; and if it should be taken, it is evident that it would prove the destruction of public credit at the very moment that it was become essential to the public safety. To imagine that at such a crisis credit might be dispensed with, would be the extreme of insatiation. In the modern system of war, nations the most wealthy are obliged to have recourse to large loans. A country so little opulent as ours, must feel this necessity in a much stronger degree. But who would lend to a government that prefaced its overtures for borrowing, by an act which demonstrated that no reliance could be placed on the steadiness of its measures for paying? The loans it might be able to procure, would be as limited in their extent as burthensome in their conditions. They would be made upon the same principles that usurers commonly lend to bankrupt and fraudulent debtors; with a sparing hand, and at enormous premiums.

It may perhaps be imagined, that from the scantiness of the resources of the country, the necessity of diverting the established funds in the case supposed, would exist; though the national government should possess an unrestrained power of taxation. But two considerations

considerations will serve to quiet all apprehension on this head ; one is, that we are sure the resources of the community in their full extent, will be brought into activity for the benefit of the union ; the other is, that whatever deficiencies there may be, can without difficulty be supplied by loans.

The power of creating new funds upon new objects of taxation by its own authority, would enable the national government to borrow, as far as its necessities might require. Foreigners as well as the citizens of America, could then reasonably repose confidence in its engagements ; but to depend upon a government, that must itself depend upon thirteen other governments for the means of fulfilling its contracts, when once its situation is clearly understood, would require a degree of credulity, not often to be met with in the pecuniary transactions of mankind, and little reconcileable with the usual sharp-sightedness of avarice.

Reflections of this kind may have trifling weight with men, who hope to see realized in America, the halcyon scenes of the poetic or fabulous age ; but to those who believe we are likely to experience a common portion of the vicissitudes and calamities, which have fallen to the lot of other nations, they must appear entitled to serious attention. Such men must behold the actual situation of their country with painful solicitude, and deprecate the evils which ambition or revenge might, with too much facility, inflict upon it.

PUBLIUS.

NUMBER XXXI.

The same Subject continued.

IN disquisitions of every kind there are certain primary truths or first principles upon which all subsequent reasonings must depend. These contain an internal evidence which, antecedent to all reflection

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or combination, commands the assent of the mind. Where it produces not this effect, it must proceed either from some disorder in the organs of perception, or from the influence of some strong interest, or passion, or prejudice. Of this nature are the maxims in geometry, that the whole is greater than its part; that things equal to the same are equal to one another; that two straight lines cannot inclose a space; and that all right angles are equal to each other. Of the same nature are these other maxims in ethics and politics, that there cannot be an effect without a cause; that the means ought to be proportioned to the end; that every power ought to be commensurate with its object; that there ought to be no limitation of a power destined to effect a purpose, which is itself incapable of limitation. And there are other truths in the two latter sciences, which if they cannot pretend to rank in the class of axioms, are yet such direct inferences from them, and so obvious in themselves, and so agreeable to the natural and unsophisticated dictates of common sense, that they challenge the assent of a sound and unbiassed mind, with a degree of force and conviction almost equally irresistible.

The objects of geometrical enquiry are so intirely abstracted from those pursuits which stir up and put in motion the unruly passions of the human heart, that mankind without difficulty adopt not only the more simple theorems of the science, but even those abstruse paradoxes, which however they may appear susceptible of demonstration, are at variance with the natural conceptions which the mind, without the aid of philosophy, would be led to entertain upon the subject. The INFINITE DIVISIBILITY of matter, or in other words, the INFINITE divisibility of a FINITE thing, extending even to the minutest atom, is a point agreed among geometricians; though not less incomprehensible to common sense, than any of those mysteries in religion, against which the batteries of infidelity have been so industriously levelled.

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But in the sciences of morals and politics men are found far less tractable. To a certain degree it is right and useful that this should be the case. Caution and investigation are a necessary armour against error and imposition. But this untractableness may be carried too far, and may degenerate into obstinacy, perverseness or disingenuity. Though it cannot be pretended that the principles of moral and political knowledge have in general the same degree of certainty with those of the mathematics; yet they have much better claims in this respect, than to judge from the conduct of men in particular situations, we should be disposed to allow them. The obscurity is much oftener in the passions and prejudices of the reasoner than in the subject. Men upon too many occasions do not give their own understandings fair play; but yielding to some untoward bias they entangle themselves in words, and confound themselves in subtleties.

How else could it happen (if we admit the objectors to be sincere in their opposition) that positions so clear as those which manifest the necessity of a general power of taxation in the government of the union, should have to encounter any adversaries among men of discernment? Though these positions have been elsewhere fully stated, they will perhaps not be improperly recapitulated in this place, as introductory to an examination of what may have been offered by way of objection to them. They are in substance as follow:—

A government ought to contain in itself every power requisite to the full accomplishment of the objects committed to its care, and to the complete execution of the trusts for which it is responsible; free from every other controul, but a regard to the public good and to the sense of the people.

As the duties of superintending the national defence and of securing the public peace against foreign or domestic violence, involve a provision for casualties

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casualties and dangers, to which no possible limits can be assigned, the power of making that provision ought to know no other bounds than the exigencies of the nation and the resources of the community.

As revenue is the essential engine by which the means of answering the national exigencies must be procured, the power of procuring that article in its full extent, must necessarily be comprehended in that of providing for those exigencies.

As theory and practice conspire to prove that the power of procuring revenue is unavailing, when exercised over the states in their collective capacities, the federal government must of necessity be invested with an unqualified power of taxation in the ordinary modes.

Did not experience evince the contrary, it would be natural to conclude that the propriety of a general power of taxation in the national government might safely be permitted to rest on the evidence of these propositions, unassisted by any additional arguments or illustrations. But we find in fact, that the antagonists of the proposed constitution, so far from acquiescing in their justness or truth seem to make their principal and most zealous effort against this part of the plan. It may therefore be satisfactory to analyze the arguments with which they combat it.

Those of them which have been most laboured with that view, seem in substance to amount to this: "It is not true, because the exigencies of the union may not be susceptible of limitation, that its power of laying taxes ought to be unconfined. Revenue is as requisite to the purposes of the local administrations as to those of the union; and the former are at least of equal importance with the latter to the happiness of the people. It is therefore as necessary, that the state governments should be able to command the means of supplying their wants, as that the national government should possess the like faculty, in respect to the wants of the union. But

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" an indefinite power of taxation in the *latter* might,
 " and probably would in time deprive the *former* of
 " the means of providing for their own necessities;
 " and would subject them entirely to the mercy of the
 " national legislature. As the laws of the union are
 " to become the supreme law of the land; as it is to
 " have power to pass all laws that may be NECESSARY
 " for carrying into execution, the authorities with
 " which it is proposed to vest it; the national govern-
 " ment might at any time abolish the taxes imposed
 " for state objects, upon the pretence of an interfe-
 " rence with its own. It might alledge a necessity of
 " doing this, in order to give efficacy to the national
 " revenues: And thus all the resources of taxation
 " might by degrees, become the subjects of federal
 " monopoly, to the intire exclusion and destruction of
 " the state governments."

This mode of reasoning appears sometimes to turn
 upon the supposition of usurpation in the national
 government; at other times it seems to be designed
 only as a deduction from the constitutional operation
 of its intended powers. It is only in the latter light
 that it can be admitted to have any pretensions to
 fairness. The moment we launch into conjecture
 about the usurpations of the federal government, we
 get into an unfathomable abyss, and fairly put ourselves
 out of the reach of all reasoning. Imagination may
 range at pleasure, till it gets bewildered amidst the
 labyrinths of an enchanted castle, and knows not on
 which side to turn to escape from the apparitions which
 itself has raised. Whatever may be the limits or
 modifications of the powers of the union, it is easy
 to imagine an endless train of possible dangers; and
 by indulging an excess of jealousy and timidity, we
 may bring ourselves to a state of absolute scepticism
 and irresolution. I repeat here what I have observed in
 substance in another place, that all observations founded
 upon the danger of usurpation, ought to be referred
 to the composition and structure of the government

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not to the nature or extent of its powers. The state governments, by their original constitutions, are invested with complete sovereignty. In what does our security consist against usurpations from that quarter? Doubtless in the manner of their formation, and in a due dependence of those who are to administer them upon the people. If the proposed construction of the federal government, be found upon an impartial examination of it, to be such as to afford, to a proper extent, the same species of security, all apprehensions on the score of usurpation ought to be discarded.

It should not be forgotten, that a disposition in the state governments to encroach upon the rights of the union, is quite as probable as a disposition in the union to encroach upon the rights of the state governments. What side would be likely to prevail in such a conflict, must depend on the means which the contending parties could employ towards ensuring success. As in republics, strength is always on the side of the people; and as there are weighty reasons to induce a belief that the state governments will commonly possess most influence over them, the natural conclusion is, that such contests will be most apt to end to the disadvantage of the union; and that there is greater probability of encroachments by the members upon the federal head, than by the federal head upon the members. But it is evident, that all conjectures of this kind, must be extremely vague and fallible; and that it is by far the safest course to lay them altogether aside; and to confine our attention wholly to the nature and extent of the powers as they are delineated in the constitution. Every thing beyond this, must be left to the prudence and firmness of the people; who, as they will hold the scales in their own hands, it is to be hoped, will always take care to preserve the constitutional equilibrium between the general and the state governments. Upon this ground, which is evidently
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the true one, it will not be difficult to obviate the objections, which have been made to an indefinite power of taxation in the United States.

PUBLIUS.

NUMBER XXXII.

The same Subject continued.

ALTHOUGH I am of opinion that there would be no real danger of the consequences, which seem to be apprehended to the state governments, from a power in the union to controul them in the levies of money; because I am persuaded that the sense of the people, the extreme hazard of provoking the resentments of the state governments, and a conviction of the utility and necessity of local administrations, for local purposes, would be a complete barrier against the oppressive use of such a power: Yet I am willing here to allow in its full extent the justness of the reasoning, which requires that the individual states should possess an independent and uncontrollable authority to raise their own revenues for the supply of their own wants. And making this concession, I affirm that (with the sole exception of duties on imports and exports) they would under the plan of the convention retain that authority in the most absolute and unqualified sense; and that an attempt on the part of the national government to abridge them in the exercise of it would be a violent assumption of power unwarranted by any article or clause of its constitution.

An intire consolidation of the states into one complete national sovereignty, would imply an intire subordination of the parts; and whatever powers might remain in them would be altogether dependent on the general will. But as the plan of the convention aims only at a partial union or consolidation, the state governments would clearly retain all the rights of sovereignty which

which they before had, and which were not by that act *exclusively* delegated to the United States. This exclusive delegation, or rather this alienation of state sovereignty, would only exist in three cases; where the constitution in express terms granted an exclusive authority to the union; where it granted in one instance an authority to the union, and in another prohibited the states from exercising the like authority; and where it granted an authority to the union, to which a similar authority in the states would be absolutely and totally *contradictory* and *repugnant*. I use these terms to distinguish this last case from another which might appear to resemble it; but which would in fact be essentially different; I mean where the exercise of a concurrent jurisdiction might be productive of occasional interferences in the *policy* of any branch of administration, but would not imply any direct contradiction or repugnancy in point of constitutional authority. These three cases of exclusive jurisdiction in the federal government may be exemplified by the following instances: The last clause but one in the eighth section of the first article provides expressly that congress shall exercise "*exclusive legislation*" over the district to be appropriated as the seat of government. This answers to the first case. The first clause of the same section empowers congress "*to lay and collect taxes, duties, imposts and excises*," and the second clause of the tenth section of the same article declares that "*no state shall without the consent of congress, lay any imposts or duties on imports or exports, except for the purpose of executing its inspection laws*." Hence would result an exclusive power in the union to lay duties on imports and exports, with the particular exception mentioned; but this power is abridged by another clause which declares, that no tax or duty shall be laid on articles exported from any state; in consequence of which qualification it now only extends to the *duties on imports*. This answers to the second case. The third will

be found in that clause, which declares that congress shall have power "to establish an **UNIFORM RULE** of naturalization throughout the United States." This must necessarily be exclusive; because if each state had power to prescribe a **DISTINCT RULE** there could be no **UNIFORM RULE**.

A case which may perhaps be thought to resemble the latter, but which is in fact widely different, affects the question immediately under consideration. I mean the power of imposing taxes on all articles other than exports and imports. This, I contend, is manifestly a concurrent and coequal authority in the United States and in the individual states. There is plainly no expression in the granting clause which makes that power *exclusive* in the union. There is no independent clause or sentence which prohibits the states from exercising it. So far is this from being the case, that a plain and conclusive argument to the contrary is deducible from the restraint laid upon the states in relation to duties on imports and exports. This restriction implies an admission, that if it were not inserted the states would possess the power it excludes, and it implies a further admission, that as to all other taxes the authority of the states remains undiminished. In any other view it would be both unnecessary and dangerous; it would be unnecessary, because if the grant to the union of the power of laying such duties implied the exclusion of the states, or even their subordination in this particular, there could be no need of such a restriction; it would be dangerous, because the introduction of it leads directly to the conclusion which has been mentioned, and which if the reasoning of the objectors be just, could not have been intended; I mean that the states in all cases to which the restriction did not apply would have a concurrent power of taxation with the union. The restriction in question amounts to what lawyers call a **NEGATIVE PRECIPUANT**; that is a *negation* of one thing and an *affirmance* of another.

of another; a negation of the authority of the states to impose taxes on imports and exports, and an affirmation of their authority to impose them on all other articles. It would be mere sophistry to argue that it was meant to exclude them *absolutely* from the imposition of taxes of the former kind, and to leave them at liberty to lay others *subject to the controul* of the national legislature. The restraining or prohibitory clause only says, that they shall not *without the consent of congress* lay such duties; and if we are to understand this in the sense last mentioned, the constitution would then be made to introduce a formal provision for the sake of a very absurd conclusion; which is that the states *with the consent* of the national legislature might tax imports and exports; and that they might tax every other article *unless controuled* by the same body. If this was the intention, why was it not left in the first instance to what is alledged to be the natural operation of the original clause conferring a general power of taxation upon the union? It is evident that this could not have been the intention, and that it will not bear a construction of the kind.

As to a supposition of repugnancy between the power of taxation in the states and in the union, it cannot be supported in that sense which would be requisite to work an exclusion of the states. It is indeed possible that a tax might be laid on a particular article by a state, which might render it *inexpedient* that a further tax should be laid on the same article by the union; but it would not imply a constitutional inability to impose a further tax. The quantity of the imposition, the expediency or inexpediency of an increase on either side, would be mutually questions of prudence; but there would be involved no direct contradiction of power. The particular policy of the national and of the state systems of finance might now and then not exactly coincide, and might require reciprocal forbearances. It is not however a mere possibility of inconvenience in the exercise of powers, but

but an immediate constitutional repugnancy, that can by implication alienate and extinguish a pre-existing right of sovereignty.

The necessity of a concurrent jurisdiction in certain cases results from the division of the sovereign power; and the rule that all authorities of which the states are not explicitly divested in favour of the union, remain with them in full vigour, is not only a theoretical consequence of that division, but is clearly admitted by the whole tenor of the instrument which contains the articles of the proposed constitution. We there find that notwithstanding the affirmative grants of general authorities, there has been the most pointed care in those cases where it was deemed improper that the like authorities should reside in the states, to insert negative clauses prohibiting the exercise of them by the states. The tenth section of the first article consists altogether of such provisions. This circumstance is a clear indication of the sense of the convention, and furnishes a rule of interpretation out of the body of the act which justifies the position I have advanced, and refutes every hypothesis to the contrary.

PUBLIUS.

NUMBER XXXIII.

The same Subject continued.

THE residue of the argument against the provisions in the constitution, in respect to taxation, is ingrafted upon the following clauses;—the last clause of the eighth section of the first article, authorises the national legislature “to make all laws which shall be necessary and proper, for carrying into execution the powers by that constitution vested in the government of the United States, or in any department

“department or officer thereof;” and the second clause of the sixth article declares, that “the constitution and the laws of the United States made *in pursuance thereof*, and the treaties made by their authority, shall be the *supreme law* of the land; “any thing in the constitution or laws of any state “to the contrary notwithstanding.”

These two clauses have been the sources of much virulent invective and petulant declamation against the proposed constitution, they have been held up to the people in all the exaggerated colours of misrepresentation, as the pernicious engines by which their local governments were to be destroyed and their liberties exterminated—as the hideous monster whose devouring jaws would spare neither sex nor age, nor high nor low, nor sacred nor profane; and yet strange as it may appear, after all this clamour, to those who may not have happened to contemplate them in the same light, it may be affirmed with perfect confidence, that the constitutional operation of the intended government would be precisely the same, if these clauses were entirely obliterated, as if they were repeated in every article. They are only declaratory of a truth, which would have resulted by necessary and unavoidable implication from the very act of constituting a federal government, and vesting it with certain specified powers. This is so clear a proposition, that moderation itself can scarcely listen to the railings which have been so copiously vented against this part of the plan, without emotions that disturb its equanimity.

What is a power, but the ability or faculty of doing a thing? What is the ability to do a thing but the power of employing the *means* necessary to its execution? What is a LEGISLATIVE power but a power of making LAWS? What are the *means* to execute a LEGISLATIVE power but LAWS? What is the power of laying and collecting taxes but a *legislative power*, or a power of *making laws*, to lay and collect taxes?

What

What are the proper means of executing such a power but *necessary* and *proper* laws?

This simple train of enquiry furnishes us at once with a test of the true nature of the clause complained of. It conducts us to this palpable truth, that a power to lay and collect taxes must be a power to pass all laws *necessary* and *proper* for the execution of that power: and what does the unfortunate and calumniated provision in question do more than declare the same truth; to wit, that the national legislature to whom the power of laying and collecting taxes had been previously given, might in the execution of that power pass all laws *necessary* and *proper* to carry it into effect? I have applied these observations thus particularly to the power of taxation, because it is the immediate subject under consideration, and because it is the most important of the authorities proposed to be conferred upon the union. But the same process will lead to the same result in relation to all other powers declared in the constitution. And it is *expressly* to execute these powers, that the sweeping clause, as it has been affectingly called, authorises the national legislature to pass all *necessary* and *proper* laws. If there be any thing exceptionable, it must be sought for in the specific powers, upon which this general declaration is predicated. The declaration itself, tho' it may be chargeable with tautology or redundancy, is at least perfectly harmless.

BUT SUSPICION may ask, why then was it introduced? The answer is, that it could only have been done for greater caution, and to guard against all cavilling refinements in those who might hereafter feel a disposition to curtail and evade the legitimate authorities of the union. The convention probably foresaw, what it has been a principal aim of these papers to inculcate, that the danger which most threatens our political welfare, is, that the state governments will finally sap the foundations of the union; and might therefore think it necessary, in

so cardinal a point, to leave nothing to construction. Whatever may have been the inducement to it, the wisdom of the precaution is evident from the cry which has been raised against it; as that very cry betrays a disposition to question the great and essential truth which it is manifestly the object of that provision to declare.

But it may be again asked, who is to judge of the necessity and propriety of the laws to be passed for executing the powers of the union? I answer first that this question arises as well and as fully upon the simple grant of those powers, as upon the declaratory clause: and I answer in the second place, that the national government, like every other, must judge in the first instance of the proper exercise of its powers; and its constituents in the last. If the federal government should overpass the just bounds of its authority, and make a tyrannical use of its powers; the people whose creature it is must appeal to the standard they have formed, and take such measures to redress the injury done to the constitution, as the exigency may suggest and prudence justify. The propriety of a law in a constitutional light, must always be determined by the nature of the powers upon which it is founded. Suppose by some forced construction of its authority (which indeed cannot easily be imagined) the federal legislature should attempt to vary the law of descent in any state; would it not be evident that in making such an attempt it had exceeded its jurisdiction and infringed upon that of the state? Suppose again that upon the pretence of an interference with its revenues, it should undertake to abrogate a land tax imposed by the authority of a state; would it not be equally evident that this was an invasion of that concurrent jurisdiction in respect to this species of tax which its constitution plainly supposes to exist in the state governments? If there ever should be a doubt on this head the credit of it will be entirely due to those reasoners, who, in the imprudent zeal of their animosity to the plan

plan of the convention, have laboured to envelope it in a cloud calculated to obscure the plainest and simplest truths.

But it is said, that the laws of the union are to be the *supreme law* of the land. What inference can be drawn from this, or what would they amount to, if they were not to be supreme? It is evident they would amount to nothing. A LAW by the very meaning of the term includes supremacy. It is a rule which those to whom it is prescribed are bound to observe. This results from every political association. If individuals enter into a state of society, the laws of that society must be the supreme regulator of their conduct. If a number of political societies enter into a larger political society, the laws which the latter may enact, pursuant to the powers entrusted to it by its constitution, must necessarily be supreme over those societies, and the individuals of whom they are composed. It would otherwise be a mere treaty, dependent on the good faith of the parties, and not a government; which is only another word for POLITICAL POWER AND SUPREMACY. But it will not follow from this doctrine that acts of the larger society which are *not pursuant* to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies, will become the supreme law of the land. These will be merely acts of usurpation, and will deserve to be treated as such. Hence we perceive that the clause which declares the supremacy of the laws of the union, like the one we have just before considered, only declares a truth, which flows immediately and necessarily from the institution of a federal government. It will not, I presume, have escaped observation, that it *expressly* confines this supremacy to laws made *pursuant to the constitution*; which I mention merely as an instance of caution in the convention; since that limitation would have been to be understood, though it had not been expressed.

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Though a law therefore for laying a tax for the use of the United States would be supreme in its nature, and could not legally be opposed or controuled; yet a law for abrogating or preventing the collection of a tax laid by the authority of a state (unless upon imports and exports) would not be the supreme law of the land, but an usurpation of power not granted by the constitution. As far as an improper accumulation of taxes on the same object might tend to render the collection difficult or precarious, this would be a mutual inconvenience not arising from a superiority or defect of power on either side, but from an injudicious exercise of power by one or the other, in a manner equally disadvantageous to both. It is to be hoped and presumed however, that mutual interest would dictate a concert in this respect which would avoid any material inconvenience. The inference from the whole is—that the individual states would, under the proposed constitution, retain an independent and uncontroulable authority to raise revenue to any extent of which they may stand in need by every kind of taxation except duties on imports and exports. It will be shewn in the next paper that this *concurrent jurisdiction* in the article of taxation was the only admissible substitute for an entire subordination, in respect to this branch of power, of state authority to that of the union.

PUBLIUS.

NUMBER XXXIV.

The same Subject continued.

I FLATTER myself it has been clearly shewn in my last number, that the particular states, under the proposed constitution, would have CO-EQUAL authority with the union in the article of revenue, except as to duties on imports. As this leaves open

to the states far the greatest part of the resources of the community, there can be no color for the assertion, that they would not possess means as abundant as could be desired for the supply of their own wants, independent of all external control. That the field is sufficiently wide will more fully appear when we come to develop the inconsiderable share of the public expences, for which it will fall to the lot of the state governments to provide.

To argue upon abstract principles that this co-ordinate authority cannot exist, would be to set up theory and supposition against fact and reality. However proper such reasonings might be to shew that a thing *ought not to exist*, they are wholly to be rejected, when they are made use of to prove that it does not exist, contrary to the evidence of the fact itself. It is well known that in the Roman republic, the legislative authority in the last resort, resided for ages in two different political bodies; not as branches of the same legislature, but as distinct and independent legislatures; in each of which an opposite interest prevailed; in one the Patrician—in the other the Plebeian. Many arguments might have been adduced to prove the unsuitness of two such seemingly contradictory authorities, each having power to *annul or repeal* the acts of the other. But a man would have been regarded as frantic, who should have attempted at Rome to disprove their existence. It will readily be understood, that I allude to the COMITIA CENTURIATA and the COMITIA TRIBUTA. The former, in which the people voted by centuries, was so arranged as to give a superiority to the Patrician interest: In the latter, in which numbers prevailed, the Plebeian interest had an entire predominancy. And yet these two legislatures co-existed for ages, and the Roman republic attained to the pinnacle of human greatness.

In the case particularly under consideration there is no such contradiction as appears in the example cited;

cited; there is no power on either side to annul the acts of the other. And in practice there is little reason to apprehend any inconvenience; because in a short course of time the wants of the states will naturally reduce themselves within a *very narrow compass*; and in the interim the United States will, in all probability, find it convenient to abstain wholly from those objects to which the particular states would be inclined to resort.

To form a more precise judgment of the true merits of this question, it will be well to advert to the proportion between the objects that will require a federal provision in respect to revenue; and those which will require a state provision. We shall discover that the former are altogether unlimited; and that the latter are circumscribed within very moderate bounds. In pursuing this inquiry, we must bear in mind, that we are not to confine our view to the present period, but to look forward to remote futurity. Constitutions of civil government are not to be framed upon a calculation of existing exigencies; but upon a combination of these, with the probable exigencies of ages, according to the natural and tried course of human affairs. Nothing therefore can be more fallacious, than to infer the extent of any power proper to be lodged in the national government, from an estimate of its immediate necessities. There ought to be a CAPACITY to provide for future contingencies, as they may happen; and as these are illimitable in their nature, so it is impossible safely to limit that capacity. It is true perhaps that a computation might be made, with sufficient accuracy to answer the purpose, of the quantity of revenue requisite to discharge the subsisting engagements of the union, and to maintain those establishments, which for some time to come, would suffice in time of peace. But would it be wise, or would it not rather be the extreme of folly to stop at this point, and to leave the government intrusted with the care of the national defence,

in a state of absolute incapacity to provide for the protection of the community, against future invasions of the public peace by foreign war or domestic convulsions? If we must be obliged to exceed this point, where can we stop short of an indefinite power of providing for emergencies as they may arise? Though it be easy to assert, in general terms, the possibility of forming a rational judgment of a due provision against probable dangers; yet we may safely challenge those who make the assertion to bring forward their data, and may affirm that they would be found as vague and uncertain as any that could be produced to establish the probable duration of the world. Observations confined to the mere prospects of internal attacks can deserve no weight, though even these will admit of no satisfactory calculation: But if we mean to be a commercial people, it must form a part of our policy to be able one day to defend that commerce. The support of a navy, and of naval wars, would involve contingencies that must baffle all the efforts of political arithmetic.

Admitting that we ought to try the novel and absurd experiment in politics, of tying up the hands of government from offensive war founded upon reasons of state: Yet, certainly we ought not to disable it from guarding the community against the ambition or enmity of other nations. A cloud has been for some time hanging over the European world. If it should break forth into a storm, who can insure us that in its progress a part of its fury would not be spent upon us? No reasonable man would hastily pronounce that we are entirely out of its reach. Or if the combustible materials that now seem to be collecting, should be dissipated without coming to maturity; or if a flame should be kindled without extending to us, what security can we have that our tranquillity will long remain undisturbed from some other cause, or from some other quarter? Let us recollect that peace or war will not always be

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left to our option; that however moderate or unambitious we may be, we cannot count upon the moderation, or hope to extinguish the ambition of others. Who could have imagined, at the conclusion of the last war, that France and Britain, wearied and exhausted as they both were, would so soon have looked with so hostile an aspect upon each other? To judge from the history of mankind we shall be compelled to conclude, that the fiery and destructive passions of war reign in the human breast with much more powerful sway, than the mild and beneficent sentiments of peace; and that to model our political systems upon speculations of lasting tranquility, would be to calculate on the weaker springs of the human character.

What are the chief sources of expence in every government? What has occasioned that enormous accumulation of debts with which several of the European nations are oppressed? The answer plainly is, wars and rebellions, the support of those institutions which are necessary to guard the body politic against these two most mortal diseases of society. The expences arising from those institutions which are relative to the mere domestic police of a state, to the support of its legislative, executive and judiciary departments, with their different appendages, and to the encouragement of agriculture and manufactures, (which will comprehend almost all the objects of state expenditure) are insignificant in comparison with those which relate to the national defence.

In the kingdom of Great-Britain, where all the ostentatious apparatus of monarchy is to be provided for, not above a fifteenth part of the annual income of the nation is appropriated to the class of expences last mentioned; the other fourteen fifteenths are absorbed in the payment of the interest of debts, contracted for carrying on the wars in which that country has been engaged, and in the maintenance of fleets and armies. If on the one hand it should be observed that the

expences incurred in the prosecution of the ambitious enterprizes and vain-glorious pursuits of a monarchy, are not a proper standard by which to judge of those which might be necessary in a republic; it ought on the other hand to be remarked, that there should be as great a disproportion, between the profusion and extravagance of a wealthy kingdom in its domestic administration, and the frugality and economy, which, in that particular, become the modest simplicity of republican government. If we balance a proper deduction from one side against that which it is supposed ought to be made from the other, the proportion may still be considered as holding good.

But let us take a view of the large debt which we have ourselves contracted in a single war, and let us only calculate on a common share of the events which disturb the peace of nations, and we shall instantly perceive without the aid of any elaborate illustration, that there must always be an immense disproportion between the objects of federal and state expenditure. It is true that several of the states separately are incumbered with considerable debts, which are an excrescence of the late war. But this cannot happen again if the proposed system be adopted; and when these debts are discharged, the only call for revenue of any consequence, which the state governments will continue to experience, will be for the mere support of their respective civil lists; to which, if we add all contingencies, the total amount in every state, ought not to exceed two hundred thousand pounds.

If it cannot be denied to be a just principle, that in framing a constitution of government for a nation, we ought in those provisions which are designed to be permanent, to calculate not on temporary but on permanent causes of expence; our attention would be directed to a provision in favor of the state governments for an annual sum of about 200,000 pounds; while the exigencies of the union could be susceptible of no limits, even in imagination. In this view of
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the subject by what logic can it be maintained, that the local governments ought to command in perpetuity, an *exclusive* source of revenue for any sum beyond the extent of 200,000 pounds? To extend its power further, in *exclusion* of the authority of the union, would be to take the resources of the community out of those hands which stood in need of them for the public welfare, in order to put them into other hands, which could have no just or proper occasion for them.

Suppose then the convention had been inclined to proceed upon the principle of a repartition of the objects of revenue between the union and its members, in *proportion* to their comparative necessities; what particular fund could have been selected for the use of the states, that would not either have been too much or too little; too little for their present, too much for their future wants? As to the line of separation between external and internal taxes, this would leave to the states, at a rough computation, the command of two-thirds of the resources of the community to defray from a tenth to a twentieth of its expences; and to the union, one third of the resources of the community, to defray from nine tenths to nineteen twentieths of its expences. If we desert this boundary, and content ourselves with leaving to the states an exclusive power of taxing houses and lands, there would still be a great disproportion between the *means* and the *end*; the possession of one third of the resources of the community, to supply at most one tenth of its wants. If any fund could have been selected and appropriated equal to and not greater than the object, it would have been inadequate to the discharge of the existing debts of the particular states, and would have left them dependent on the union for a provision for this purpose.

The preceding train of observations will justify the position which has been elsewhere laid down, that,
"A CONCURRENT JURISDICTION in the article of
"taxation,

“taxation, was the only admissible substitute for an entire subordination, in respect to this branch of power, of state authority to that of the union.” Any separation of the objects of revenue that could have been fallen upon, would have amounted to a sacrifice of the great INTERESTS of the union to the POWER of the individual states. The convention thought the concurrent jurisdiction preferable to that subordination; and it is evident that it has at least the merit of reconciling an indefinite constitutional power of taxation in the federal government, with an adequate and independent power in the states to provide for their own necessities. There remain a few other lights, in which this important subject of taxation will claim a further consideration.

PUBLIUS.

NUMBER XXXV.

The same Subject continued.

BEFORE we proceed to examine any other objections to an indefinite power of taxation in the union, I shall make one general remark; which is, that if the jurisdiction of the national government in the article of revenue should be restricted to particular objects, it would naturally occasion an undue proportion of the public burthens to fall upon those objects. Two evils would spring from this source, the oppression of particular branches of industry, and an unequal distribution of the taxes, as well among the several states as among the citizens of the same state.

Suppose, as has been contended for, the federal power of taxation were to be confined to duties on imports, it is evident that the government, for want
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of being able to command other resources, would frequently be tempted to extend these duties to an injurious excess. There are persons who imagine that this can never be the case; since the higher they are, the more it is alledged they will tend to discourage an extravagant consumption, to produce a favorable balance of trade, and to promote domestic manufactures. But all extremes are pernicious in various ways. Exorbitant duties on imported articles serve to beget a general spirit of smuggling; which is always prejudicial to the fair trader, and eventually to the revenue itself. They tend to render other classes of the community tributary in an improper degree to the manufacturing classes to whom they give a premature monopoly of the markets. They sometimes force industry out of its more natural channels into others in which it flows with less advantage. And in the last place they oppress the merchant, who is often obliged to pay them himself without any retribution from the consumer. When the demand is equal to the quantity of goods at market, the consumer generally pays the duty; but when the markets happen to be overstocked, a great proportion falls upon the merchant, and sometimes not only exhausts his profits, but breaks in upon his capital. I am apt to think that a division of the duty between the seller and the buyer more often happens than is commonly imagined. It is not always possible to raise the price of a commodity, in exact proportion to every additional imposition laid upon it. The merchant, especially in a country of small commercial capital, is often under a necessity of keeping prices down, in order to a more expeditious sale.

The maxim that the consumer is the payer, is so much oftener true than the reverse of the proposition, that it is far more equitable the duties on imports should go into a common stock, than that they should redound to the exclusive benefit of the importing states. But it is not so generally true as to render
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it equitable that those duties should form the only national fund. When they are paid by the merchant, they operate as an additional tax upon the importing state; whose citizens pay a proportion of them in the character of consumers. In this view they are productive of inequality among the states; which inequality would be increased with the increased extent of the duties. The confinement of the national revenues to this species of imposts, would be attended with inequality, from a different cause, between the manufacturing and the non-manufacturing states. The states which can go furthest towards the supply of their own wants, by their own manufactures, will not, according to their numbers or wealth, consume so great a proportion of imported articles, as those states which are not in the same favourable situation; they would not therefore in this mode alone contribute to the public treasury in a ratio to their abilities. To make them do this, it is necessary that recourse be had to excises, the proper objects of which are particular kinds of manufactures. New-York is more deeply interested in these considerations than such of her citizens as contend for limiting the power of the union to external taxation may be aware of. New-York is an importing state, and from a greater disproportion between her population and territory, is less likely, than some other states, speedily to become in any considerable degree a manufacturing state. She would of course suffer in a double light from restraining the jurisdiction of the union to commercial imposts.

So far as these observations tend to inculcate a danger of the import duties being extended to an injurious extreme it may be observed, conformably to a remark made in another part of these papers, that the interest of the revenue itself would be a sufficient guard against such an extreme. I readily admit that this would be the case as long as other resources were open; but if the avenues to them were closed, *hops*,
stimulated

stimulated by necessity, might beget experiments fortified by rigorous precautions and additional penalties; which for a time might have the intended effect, till there had been leisure to contrive expedients to elude these new precautions. The first success would be apt to inspire false opinions; which it might require a long course of subsequent experience to correct. Necessity, especially in politics, often occasions false hopes, false reasonings and a system of measures, correspondently erroneous. But even if this supposed excess should not be a consequence of the limitation of the federal power of taxation, the inequalities spoken of would still ensue, though not in the same degree, from the other causes that have been noticed. Let us now return to the examination of objections.

One which, if we may judge from the frequency of its repetition, seems most to be relied on, is that the house of representatives is not sufficiently numerous for the reception of all the different classes of citizens; in order to combine the interests and feelings of every part of the community, and to produce a true sympathy between the representative body and its constituents. This argument presents itself under a very specious and seducing form; and is well calculated to lay hold of the prejudices of those to whom it is addressed. But when we come to dissect it with attention, it will appear to be made up of nothing but fair sounding words. The object it seems to aim at is in the first place impracticable, and in the sense in which it is contended for is unnecessary. I reserve for another place the discussion of the question which relates to the sufficiency of the representative body in respect to numbers; and shall content myself with examining here the particular use which has been made of a contrary supposition in reference to the immediate subject of our inquiries.

The idea of an actual representation of all classes of the people by persons of each class is altogether visionary.

visionary. Unless it were expressly provided in the constitution that each different occupation should send one or more members, the thing would never take place in practice. Mechanics and manufacturers will always be inclined with few exceptions to give their votes to merchants in preference to persons of their own professions or trades. Those discerning citizens are well aware that the mechanic and manufacturing arts furnish the materials of mercantile enterprise and industry. Many of them indeed are immediately connected with the operations of commerce. They know that the merchant is their natural patron and friend; and they are aware that however great the confidence they may justly feel in their own good sense, their interests can be more effectually promoted by the merchant than by themselves. They are sensible that their habits in life have not been such as to give them those acquired endowments, without which in a deliberative assembly the greatest natural abilities are for the most part useless; and that the influence and weight and superior acquirements of the merchants, render them more equal to a contest with any spirit which might happen to infuse itself into the public councils unfriendly to the manufacturing and trading interests. These considerations, and many others that might be mentioned, prove, and experience confirms it, that artizans and manufacturers, will commonly be disposed to bestow their votes upon merchants and those whom they recommend. We must therefore consider merchants as the natural representatives of all these classes of the community.

With regard to the learned professions, little need be observed; they truly form no distinct interest in society; and according to their situation and talents will be indiscriminately the objects of the confidence and choice of each other, and of other parts of the community.

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Nothing remains but the landed interest; and this in a political view, and particularly in relation to taxes I take to be perfectly united from the wealthiest landlord to the poorest tenant. No tax can be laid on land which will not affect the proprietor of millions of acres as well as the proprietor of a single acre. Every land-holder will therefore have a common interest to keep the taxes on land as low as possible; and common interest may always be reckoned upon as the surest bond of sympathy. But if we even could suppose a distinction of interest between the opulent land-holder and the middling farmer, what reason is there to conclude that the first would stand a better chance of being deputed to the national legislature than the last? If we take fact as our guide, and look into our own senate and assembly we shall find that moderate proprietors of land prevail in both; nor is this less the case in the senate, which consists of a smaller number than in the assembly, which is composed of a greater number. Where the qualifications of the electors are the same, whether they have to choose a small or a large number their votes will fall upon those in whom they have most confidence; whether these happen to be men of large fortunes or of moderate property or of no property at all.

It is said to be necessary that all classes of citizens should have some of their own number in the representative body, in order that their feelings and interests may be the better understood and attended to. But we have seen that this will never happen under any arrangement that leaves the votes of the people free. Where this is the case, the representative body, with too few exceptions to have any influence on the spirit of the government will be composed of land-holders, merchants, and men of the learned professions. But where is the danger that the interests and feelings of the different classes of citizens will not be understood or attended to by these three descriptions of men? Will not the land-holder know and feel whatever will

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promote or injure the interests of landed property? and will he not from his own interest in that species of property be sufficiently prone to resist every attempt to prejudice or encumber it? Will not the merchant understand and be disposed to cultivate as far as may be proper the interests of the mechanic and manufacturing arts to which his commerce is so nearly allied? Will not the man of the learned profession, who will feel a neutrality to the rivalships between the different branches of industry, be likely to prove an impartial arbiter between them, ready to promote either, so far as it shall appear to him conducive to the general interests of the society?

If we take into the account the momentary humours or dispositions which may happen to prevail in particular parts of the society, and to which a wise administration will never be inattentive, is the man whose situation leads to extensive inquiry and information less likely to be a competent judge of their nature, extent and foundation than one whose observation does not travel beyond the circle of his neighbours and acquaintances? Is it not natural that a man who is a candidate for the favour of the people, and who is dependent on the suffrages of his fellow-citizens for the continuance of his public honors should take care to inform himself of their dispositions and inclinations and should be willing to allow them their proper degree of influence upon his conduct. This dependence, and the necessity of being bound himself and his posterity by the laws to which he gives his assent are the true, and they are the strong chords of sympathy between the representative and the constituent.

There is no part of the administration of government that requires extensive information and a thorough knowledge of the principles of political economy so much as the business of taxation. The man who understands those principles best will be least likely to resort to oppressive expedients, or to sacrifice any particular class of citizens to the procurement of revenue.

revenue. It might be demonstrated that the most productive system of finance will always be the least burthenfome. There can be no doubt that in order to a judicious exercise of the power of taxation, it is necessary that the person in whose hands it is should be acquainted with the general genius, habits and modes of thinking of the people at large and with the resources of the country. And this is all that can be reasonably meant by a knowledge of the interests and feelings of the people. In any other sense the proposition has either no meaning, or an absurd one. And in that sense let every considerate citizen judge for himself where the requisite qualification is most likely to be found.

PUBLIUS.

NUMBER XXXVI.

The same Subject continued.

WE have seen that the result of the observations, to which the foregoing number has been principally devoted, is that from the natural operation of the different interests and views of the various classes of the community, whether the representation of the people be more or less numerous, it will consist almost entirely of proprietors of land, of merchants and of members of the learned professions, who will truly represent all those different interests and views. If it should be objected that we have seen other descriptions of men in the local legislatures; I answer, that it is admitted there are exceptions to the rule, but not in sufficient number to influence the general complexion or character of the government. There are strong minds in every walk of life that will rise superior to the disadvantages of situation, and will command the

tribute due to their merit, not only from the classes to which they particularly belong, but from the society in general. The door ought to be equally open to all; and I trust, for the credit of human nature, that we shall see examples of such vigorous plants flourishing in the soil of federal, as well as of state legislation; but occasional instances of this sort, will not render the reasoning founded upon the general course of things less conclusive.

The subject might be placed in several other lights that would lead all to the same result; and in particular it might be asked, what greater affinity or relation of interest can be conceived between the carpenter and blacksmith, and the linen manufacturer or stocking weaver, than between the merchant and either of them? It is notorious, that there are often as great rivalships between different branches of the mechanic or manufacturing arts, as there are between any of the departments of labour and industry; so that unless the representative body were to be far more numerous than would be consistent with any idea of regularity or wisdom in its deliberations, it is impossible that what seems to be the spirit of the objection we have been considering, should ever be realised in practice. But I forbear to dwell longer on a matter, which has hitherto worn too loose a garb to admit even of an accurate inspection of its real shape or tendency.

There is another objection of a somewhat more precise nature which claims our attention. It has been asserted that a power of internal taxation in the national legislature could never be exercised with advantage, as well from the want of a sufficient knowledge of local circumstances as from an interference between the revenue laws of the union and of the particular states. The supposition of a want of proper knowledge, seems to be entirely destitute of foundation. If any question is depending in a state legislature respecting one of the counties which demands a knowledge of local details, how is it acquired? No doubt
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from the information of the members of the county. Cannot the like knowledge be obtained in the national legislature from the representatives of each state? And is it not to be presumed that the men who will generally be sent there, will be possessed of the necessary degree of intelligence, to be able to communicate that information? Is the knowledge of local circumstances, as applied to taxation, a minute topographical acquaintance with all the mountains, rivers, streams, highways and bye-paths in each state, or is it a general acquaintance with its situation and resources—with the state of its agriculture, commerce, manufactures—with the nature of its products and consumptions—with the different degrees and kinds of its wealth, property and industry?

Nations in general, even under governments of the more popular kind, usually commit the administration of their finances to single men, or to boards composed of a few individuals, who digest and prepare, in the first instance, the plans of taxation; which are afterwards passed into laws by the authority of the sovereign or legislature. Inquisitive and enlightened statesmen are every where deemed best qualified to make a judicious selection of the objects proper for revenue; which is a clear indication, as far as the sense of mankind can have weight in the question, of the species of knowledge of local circumstances requisite to the purposes of taxation.

The taxes intended to be comprised under the general denomination of internal taxes, may be subdivided into those of the *direct* and those of the *indirect* kind. Though the objection be made to both, yet the reasoning upon it seems to be confined to the former branch. And indeed as to the latter, by which must be understood duties and excises on articles of consumption, one is at a loss to conceive what can be the nature of the difficulties apprehended. The knowledge relating to them, must evidently be of a kind that will either be suggested by the nature of the

article itself, or can easily be procured from any well informed man, especially of the mercantile class. The circumstances that may distinguish its situation in one state from its situation in another, must be few, simple, and easy to be comprehended. The principal thing to be attended to would be to avoid those articles which had been previously appropriated to the use of a particular state; and there could be no difficulty in ascertaining the revenue system of each. This could always be known from the respective codes of laws, as well as from the information of the members of the several states.

The objection when applied to real property, or to houses and lands, appears to have, at first sight, more foundation; but even in this view, it will not bear a close examination. Land taxes are commonly laid in one of two modes, either by *actual* valuations permanent or periodical, or by occasional assessments, at the discretion or according to the best judgment of certain officers, whose duty it is to make them.—In either case the EXECUTION of the business, which alone requires the knowledge of local details, must be devolved upon discreet persons in the character of commissioners or assessors, elected by the people or appointed by the government for the purpose. All that the law can do must be to name the persons, or to prescribe the manner of their election or appointment, to fix their numbers and qualifications; and to draw the general outlines of their powers and duties. And what is there in all this, that cannot as well be performed by the national legislature as by a state legislature? The attention of either can only reach to general principles; local details, as already observed, must be referred to those who are to execute the plan.

But there is a simple point of view in which this matter may be placed, that must be altogether satisfactory. The national legislature can make use of the *system of each state within that state*. The method of laying and collecting this species of taxes in each state, can,

can, in all its parts, be adopted and employed by the federal government.

Let it be recollected, that the proportion of these taxes is not to be left to the discretion of the national legislature: but is to be determined by the numbers of each state, as described in the second section of the first article. An actual census or enumeration of the people must furnish the rule; a circumstance which effectually shuts the door to partiality or oppression. The abuse of this power of taxation seems to have been provided against with guarded circumspection. In addition to the precaution just mentioned, there is a provision that "all duties, imposts, and excises, shall be UNIFORM throughout the United States."

It has been very properly observed by different speakers and writers on the side of the constitution, that if the exercise of the power of internal taxation by the union, should be judged beforehand upon mature consideration, or should be discovered on experiment, to be really inconvenient, the federal government may forbear the use of it, and have recourse to requisitions in its stead. By way of answer to this, it has been triumphantly asked, why not in the first instance omit that ambiguous power and rely upon the latter resource? Two solid answers may be given; the first is, that the actual exercise of the power, may be found both *convenient* and *necessary*; for it is impossible to prove in theory or otherwise, than by the experiment that it cannot be advantageously exercised. The contrary indeed appears most probable. The second answer is, that the existence of such a power in the constitution, will have a strong influence in giving efficacy to requisitions. When the states know that the union can supply itself without their agency, it will be a powerful motive for exertion on their part.

As to the interference of the revenue laws of the union, and of its members; we have already seen that there can be no clashing or repugnancy of authority. The laws cannot therefore in a legal sense, interfere with

with each other; and it is far from impossible to avoid an interference even in the policy of their different systems. An effectual expedient for this purpose will be mutually to abstain from those objects, which either side may have first had recourse to. As neither can *controul* the other, each will have an obvious and sensible interest in this reciprocal forbearance. And where there is an *immediate* common interest, we may safely count upon its operation. When the particular debts of the states are done away, and their expences come to be limited within their natural compass, the possibility almost of interference will vanish. A small land tax will answer the purposes of the states, and will be their most simple and most fit resource.

Many spectres have been raised out of this power of internal taxation, to excite the apprehensions of the people—double sets of revenue officers—a duplication of their burthens by double taxations, and the frightful forms of odious and oppressive poll-taxes, have been played off with all the ingenious dexterity of political legerdemain.

As to the first point, there are two cases in which there can be no room for double sets of officers; one where the right of imposing the tax is exclusively vested in the union, which applies to the duties on imports; the other, where the object has not fallen under any state regulation or provision, which may be applicable to a variety of objects. In other cases, the probability is, that the United States will either wholly abstain from the objects pre-occupied for local purposes, or will make use of the state officers and state regulations, for collecting the additional imposition. This will best answer the views of revenue, because it will save expence in the collection, and will best avoid any occasion of disgust to the state governments and to the people. At all events, here is a practicable expedient for avoiding such an inconvenience; and nothing more can be required than to show that evils predicted do not necessarily result from the plan.

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As to any argument derived from a supposed system of influence, it is a sufficient answer to say, that it ought not to be presumed; but the supposition is susceptible of a more precise answer. If such a spirit should infest the councils of the union, the most certain road to the accomplishment of its aim would be to employ the state officers as much as possible, and to attach them to the union by an accumulation of their emoluments. This would serve to turn the tide of state influence into the channels of the national government, instead of making federal influence flow in an opposite and adverse current. But all suppositions of this kind are invidious, and ought to be banished from the consideration of the great question before the people. They can answer no other end than to cast a mist over the truth.

As to the suggestion of double taxation, the answer is plain. The wants of the union are to be supplied in one way or another; if to be done by the authority of the federal government, it will not be to be done by that of the state governments. The quantity of taxes to be paid by the community, must be the same in either case; with this advantage, if the provision is to be made by the union, that the capital resource of commercial imposts, which is the most convenient branch of revenue, can be prudently improved to a much greater extent under federal than under state regulation, and of course will render it less necessary to recur to more inconvenient methods; and with this further advantage, that as far as there may be any real difficulty in the exercise of the power of internal taxation, it will impose a disposition to greater care in the choice and arrangement of the means; and must naturally tend to make it a fixed point of policy in the national administration to go as far as may be practicable in making the luxury of the rich tributary to the public treasury, in order to diminish the necessity of those impositions, which might create dissatisfaction in the poorer and most numerous classes of the society.

society. Happy it is when the interest which the government has in the preservation of its own power, coincides with a proper distribution of the public burthens, and tends to guard the least wealthy part of the community from oppression!

As to poll taxes, I, without scruple, confess my disapprobation of them; and though they have prevailed from an early period in those states* which have uniformly been the most tenacious of their rights, I should lament to see them introduced into practice under the national government. But does it follow, because there is a power to lay them, that they will actually be laid? Every state in the union has power to impose taxes of this kind; and yet in several of them they are unknown in practice. Are the state governments to be stigmatised as tyrannies because they possess this power? If they are not, with what propriety can the like power justify such a charge against the national government, or even be urged as an obstacle to its adoption? As little friendly as I am to the species of imposition, I still feel a thorough conviction, that the power of having recourse to it, ought to exist in the federal government. There are certain emergencies of nations, in which expedients that in the ordinary state of things ought to be fore-born, become essential to the public weal. And the government from the possibility of such emergencies ought ever to have the option of making use of them. The real scarcity of objects in this country, which may be considered as productive sources of revenue, is a reason peculiar to itself, for not abridging the discretion of the national councils in this respect. There may exist certain critical and tempestuous conjunctures of the state, in which a poll tax may become an inestimable resource. And as I know nothing to exempt this portion of the globe from the common calamities that have befallen other parts of it, I acknowledge my aversion to every project that is calculated

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* The New-England states.

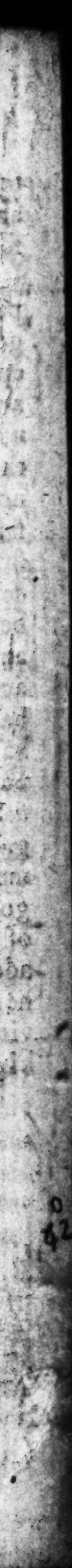
to disarm the government of a single weapon, which in any possible contingency might be usefully employed for the general defence and security.

I have now gone through the examination of those powers proposed to be conferred upon the federal government; which relate more peculiarly to its energy, and to its efficiency for answering the great and primary objects of union. There are others, which though omitted here, will in order to render the view of the subject more complete, be taken notice of under the next head of our enquiries. I flatter myself the progress already made will have sufficed to satisfy the candid and judicious part of the community, that some of the objections which have been most strenuously urged against the constitution, and which were most formidable in their first appearance, are not only destitute of substance, but if they had operated in the formation of the plan, would have rendered it incompetent to the great ends of public happiness and national prosperity. I equally flatter myself that a further and more critical investigation of the system will serve to recommend it still more to every sincere and disinterested advocate for good government; and will leave no doubt with men of this character of the propriety and expediency of adopting it. Happy will it be for ourselves, and most honorable for human nature, if we have wisdom and virtue enough, to set so glorious an example to mankind!

PUBLIUS.

END OF VOLUME FIRST.





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